



**DETYENS SHIPYARDS INC.**  
1670 DRYDOCK AVENUE  
BUILDING 236, SUITE 200  
NORTH CHARLESTON, SC 29405-2121

**GENERAL SHIP REPAIRS**

**TEL: (843) 308-8000**

**FAX: (843) 308-8059**

September 5, 2018

VIA EMAIL ; lee.gearing@crowley.com  
Crowley Government Services, Inc. (CGS)  
9487 Regency Square Blvd.  
Jacksonville, FL 32225

Attn: Lee A. Gearing, Manager  
Contract Compliance, CGS

Subj: USNS LUMMUS DSI #5021

Dear Mr. Gearing,

Attached please find the executed BIMCO contract and page 20 of 20 of the CGS Commercial Procurement Clauses for the subject vessel.

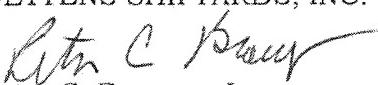
Also, for the sake of good order, I have attached the Clarifications and Exemptions submitted as part of our Proposal No. 5021 dated August 1, 2018.

The insurance certificates have been requested from our underwriters and should be sent to you in the very near future.

Please let us know if you need anything else.

Sincerely,

DETYENS SHIPYARDS, INC.

  
Peter C. Browne, Jr.  
Vice President - Estimating

1. Place and date Jacksonville, FL August 24, 2018		BIMCO STANDARD SHIP REPAIR CONTRACT CODE NAME: REPAIRCON	
2. Owners (Full style and address) (Cl. 1) <b>Crowley Government Services, Inc. (CGS)</b> 9487 Regency Square Blvd. Jacksonville, FL 32225 on behalf of the U.S. Government, (owners) Owners warrant that they are *are not* bareboat charterers (* delete as applicable)		3. Contractors (Full style and address)(Cl. 1) <b>Detyens Shipyard Inc.</b> North Charleston, SC 92405-2121	
4. Vessel's name (Cl. 1) <b>USNS LUMMUS, MMC-12</b>		5. Contractors' Yard (Cl. 1) <b>Same as Above</b>	
6. Contract Period (Cl. 1 and Cl. 2(a)(ii)) <b>November 15, 2018 - January 19, 2019</b>		7. Vessel's description (Cl. 1) <b>Public Vessel (U.S. Naval Ship)</b> Flag /Year built: <b>1986</b>	
8. Delivery Date (Cl. 4(a)) <b>On or about November 15, 2018</b>		9. Cancellation Date (Cl. 4(b)(i)) <b>November 15, 2018</b>	
10. Contract Price and currency (Cl. 1 and 5(a)) <b>\$14,244,574.00</b>		Classification Society: <b>ABS</b> DWT MTs (Summer): <b>26,949 MT</b> GT/NT: <b>44,543 GT</b> LOA/LBP: <b>673 T, 02 IN</b> Breadth/Depth/Draft moulded: <b>105 FT/33 FT</b>	
11. Overtime periods and rates (Cl. 2(a)(ii)) <b>See attached Annex "C" Tariff Rates</b>		13. Guarantee period in months (Cl. 7(b)) <b>6 Months from the date of acceptance</b>	
12. Owners' Representative(s) (Cl. 3(a)) <b>Dennis Turnquist</b>		14. Payment terms (Cl. 5(b))  <b>See Attachment "A" SER 25</b>	
15. Total liability (a) Contractors' (Cl. 6(a)), (b)(iv)(1)) <b>\$30 million USD</b>		16. Liability for late redelivery (Cl. 6(a)) Daily Rate <b>\$84,416-</b> Maximum liability	
17. Interest rate (Cl. 4(b)(ii), 5(b)(ii) and (iv)) <b>None shall apply</b>		18. Law and Jurisdiction/Dispute resolution (state 12(a), 12(b) or 12(c)) as agreed; if 12(c) agreed state place of arbitration (if not filled in 12(a) shall apply) (Cl. 12) <b>42b Clause 12, as amended, shall apply</b>	
19. Redelivery Termination Date (Cl. 9(a)(iii))			
20. Numbers of additional clauses attached, if any <b>Attachment "A" Crowley Government Services, Inc. (CGS) Terms and Conditions for Drydocking and Attachment "B" Crowley Government Services, Inc. (CGS) Flow Down Clauses for Subcontracts under Prime Contract No. N62387-15-C-3135 shall apply.</b>			

Copyright published by BIMCO, Copenhagen

It is mutually agreed between the party stated in Box 2 and the party stated in Box 3 that this Contract consisting of PART I and PART II as well as Annex "A" (Specification), Annex "B" (Work Variation Change Order Form) and, if applicable, Annex "C" (Tariff) shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I, Attachment "B" and Attachment "A", and Annexes "A" and "B" and, if applicable, Annex "C" shall prevail over those of PART II to the extent of such conflict, but no further.

This document is a computer generated REPAIRCON form printed by authority of BIMCO. Any insertion or deletion to the form must be clearly visible. In the event of any modification made to the pre-printed text of this document which is not clearly visible, the text of the original BIMCO approved document shall apply. BIMCO assumes no responsibility for any loss, damage or expense as a result of discrepancies between the original BIMCO approved document and this computer generated document.



PART I

**Exhibit A**

Signature (Owners)	Signature (Contractors)	Date
	Rita C Bruey - VP ESTIMATING	9/5/18

This document is a computer generated REPAIRCON form printed by authority of BIMCO. Any insertion or deletion to the form must be clearly visible. In the event of any modification made to the pre-printed text of this document which is not clearly visible, the text of the original BIMCO approved document shall apply. BIMCO assumes no responsibility for any loss, damage or expense as a result of discrepancies between the original BIMCO approved document and this computer generated document.

**Exhibit A**

## USNS LUMMUS

Clarifications and Exceptions:

1. No allowance has been made for opening and/or cleaning and/or gas free certification of any tanks, cofferdams, voids, etc. unless specifically identified.
2. Any work items stating that all repairs and hot work shall be completed prior to the start of any painting – or words to that effect – are understood to mean known work in the vicinity of the painting as it applies to the work item in which it is contained.
3. With regards to any question asked that the response received suggested that the shipyard should take the opportunity to perform a ship check we respectfully point out that no ship check was offered and nowhere within the documents provided is there a requirement to attend a ship check. Therefore, we reserve the right to adjust our price for those work items once the existing conditions are identified.
4. Any pricing provided for the “overhaul” of hydraulic cylinders includes disassembly, cleaning, inspection, a written report, cylinder rod polishing and reassembly with new seals only.
5. We take exception to cleaning of tanks with hot water for safety and quality assurance reasons and would be happy to discuss this further at your convenience.
6. For all surface preparation and coating work items - Areas inaccessible to or that could be damaged by UHP water blasting would be power tooled to an SP-3. Coatings would be applied via brush, roll or limited spray at shipyards discretion. All spot work to be in minimum one (1) ft<sup>2</sup> increments and evenly divided as to the degree of difficulty.
7. We are not sure we agree on the scope of work required on several surface preparations and coating items as well as cleaning items and would be happy to discuss this further at your convenience. The items we refer to are 112, 120, 122, 126, 127, 133, 256, 182, 197, 528 as a minimum.
8. Repairs not specifically identified are not included in this bid proposal (i.e. “as required”, “if needed”, etc.) Work items affected by this statement are 109, 119, 124, 158, 160, 165, 194, 312, 506, 513, 523, 528, 555, 574, 599, 802, 803 as a minimum. We would be happy to discuss this further at your convenience.

As a result of #8., above we offer the following budgetary pricing:

Work item 523 – USNS BUTTON - Until such time as the actual scope of this work item can be clearly defined, we have allowed 4,500 shipyard hours of labor, \$50,000 for direct material and \$20,000 for sub-contractor to include lifts and NDT.

Work item 523 – USNS LUMMUS - Until such time as the actual scope of this work item can be clearly defined, we have allowed 15,000 shipyard hours of labor, \$75,000 for direct material and \$25,000 for sub-contractor to include lifts and NDT.

Work Item 555 - Until such time as the actual scope of this work item can be clearly defined, we have allowed 10,000 shipyard hours of labor, \$50,000 for direct material and \$20,000 for sub-contractor to include lifts, rental equipment and NDT.



PWB 9/5/18

## USNS LUMMUS

9. Where references or information was not provided that is required to accomplish the work, we reserve the right to review our proposal upon receipt of the information. Work items affected by this statement are 505, 506, 542 as a minimum.

10. Work Item 025 - Without an extensive review of the existing conditions of the vessel upon arrival at the shipyard, there are many unknown variables associated with this work item. We would be happy to discuss this further with you at your convenience.

A key challenge in the performance of the inclining experiment is the unknown arrival condition of the ship in terms of how much "non-lightship" weights or cargo it is going to have. The aggregate sum of items to add or deduct from the survey ship must be less than 2% of the lightship weight. If it exceeds this, then we will need to either offload the items from the ship, or weigh the items with a calibrated scale to the satisfaction of the ABS surveyor or obtain documentation of the weight from a manufacturer's document or shipping label.

For these ships, it could amount to hundreds or even thousands of items. It is unknown at this point. In the case of the USNS BUTTON or USNS LUMMUS, since the ship has been in service for so long, we expect to find a long list of items that will need to be on the deduct list, such as spares, old parts, drums and pallets of material, consumables, bar stock, shapes, etc.

Another challenge will be finalizing the survey list while the shipyard is still performing work. There is no easy solution to this. As well the shipyard will need to be finished with all work and have all materials removed prior to the survey being conducted with MSC and ABS.

The labor cost estimate for this work item is based on the ship meeting the total aggregate sum requirement of no more than 2% of estimated lightship (items to be deducted or added, less contents of tanks). ABS stability group services are required and are not included. No tank filling, emptying, cleaning, gas freeing is specifically included. No responsibility for frozen and refrigerated stores is included.

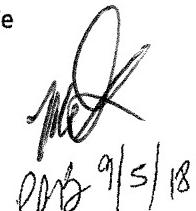
In the case of paragraph 7.15, we have no control over weather conditions and therefore any cancellation or postponement of the stability test shall not cause the shipyard to be responsible for costs arising from the cancellation.

11. Work Item 301 - For purposes of this bid proposal, we have not included any berthing or food or transportation for the crew. If it is determined that these are needed, CGS has documentation of the allowed rates and we would handle the cost as a material issue with an 18% mark-up if we are required to pay the costs.

12. Work Item 538 - The OEM, Aqua-Chem recommends against replacing tubes unless they are in the outer row as good tubes would be required to be cut out to get to inner row tubes, as required by paragraph 7.3.5.1.

Therefore our bid proposal does not include tube renewals.

13. Work Item 910 - The Tate Temco valve listed in the work item has a 16-18 week lead time. We recommend that CGS consider purchasing the valve now.



Mark J. Johnson  
9/5/18

**ANNEX "A" (SPECIFICATION)**  
**BIMCO STANDARD SHIP REPAIR CONTRACT**  
**CODE NAME: REPAIRCON**

---

*Note: Annex "A" will either be the front sheet to whatever detailed technical specification has been developed and agreed between the Parties, or will be a list identifying by date and description the various documents and correspondence exchanged between the Parties which together comprise the Specification.*

ANNEX "B" (**WORK VARIATION FORM CHANGE ORDER FORM**)

BIMCO STANDARD SHIP REPAIR CONTRACT

CODE NAME: REPAIRCON

Vessel's Name: <b>USNS LUMMUS, MMC - 12</b>	<b>WVF COF</b> No.:	Date issued for Signature:
Description of Additional Works/Reductions:		
(a) Adjustment to Contract Price:	(b) Time for payment of Adjustment	(c) Adjustment to Contract Period
For Contractors		For Owners
Name:	Date:	Name:
Signature:	Signature:	

**ANNEX "C" (TARIFF RATES)  
BIMCO STANDARD SHIP REPAIR CONTRACT  
CODE NAME: REPAIRCON**

---

## **PART II**

# **REPAIRCON Standard Ship Repair Contract**

<b>Definitions</b>	1	best local practice and, unless otherwise agreed, within normal working hours. <b>The Contractor shall be responsible for all cost and expenses necessary for the completion of the Works.</b> Any overtime carried out by the Contractors to complete the Works within the Contract Period shall be for their account, but any overtime carried out at the Owners' written request shall be subject to extra cost as stated in <b>Box 11.</b>	52
"Additional Works" means all work, if any, in addition to or modification of the Specification Works (including any changes required by changes in the rules of the Owners' regulatory bodies after the date of the Contract), which are to be described on a <b>Work Variation Change Order</b> Form attached as Annex "B" hereto.	2		53
<b>"CGS Contracting Officer"</b> means the person in CGS contracting department with the authority to administer this Contract. For the avoidance of doubt CGS Contracting Officer does not mean Owners' Representative(s).	3		54
"Completion" means the completion of the Works.	4		55
"Contract Period" means the period (commencing on the first working day after the date of delivery) agreed between the Parties as stated in <b>Box 6</b> for the performance of the Specification as may be amended as a consequence of Additional Works and/or Reductions and/or pursuant to <b>Clause 8</b> (Disruptions).	5		56
"Contract Price" means the agreed price for the Specification Works as stated in <b>Box 10</b> , as may be adjusted by the value of any Additional Works less any Reductions.	6		57
"Contractors" means the company stated in <b>Box 3</b> .	7		58
"Contractors' Yard" means the premises of the Contractors stated in <b>Box 5</b> .	8		
"Delivery" means delivery of the Vessel to the Contractors at the Contractors' Yard or elsewhere as may have been agreed between the Parties.	9		
"Owners" means the Owner stated in <b>Box 2</b> .	10		
<b>"Owners' Representative(s)" means the Owners' Representative(s) stated in Box 12.</b>	11		
"Parties" means the Owners and the Contractors.	12		
<b>"Prime Contractor" means the contractor under Prime Contract No. [insert prime contract No.]</b>	13		
"Redelivery" means redelivery of the Vessel to the Owners at the Contractors' Yard or elsewhere as may have been agreed between the Parties.	14		
"Reductions" means all deletions, if any, to the Specification Works, which are to be recorded on a Work Variation Form.	15		
"Specification Works" means the work to be carried out under this Contract described in the Specification attached as Annex "A" hereto.	16		
"Sub-contractors" means all persons engaged by the Contractors to do work, supply materials or equipment, or provide accommodation or services in connection with the Works.	17		
"Tariff" means the rates agreed, if any, in <b>Annex "C"</b> attached hereto.	18		
"Vessel" means the vessel described in <b>Boxes 4 and 7</b> .	19		
"Works" means the Specification Works, as may be amended by any Additional Works and/or Reductions.	20		
<b>2. Performance and Approval of the Work</b>	21		
(a) <b>Performance of Works</b>	22		
(i) The Contractors shall perform the Works in accordance with the provisions of this Contract, the requirements of the Parties' regulatory bodies, and to the reasonable satisfaction of the Owners <b>and Owners Representative(s) which does not limit the Contractors obligation to perform in accordance with the Works.</b>	23		
(ii) The Works shall be performed in accordance with	24		
	25	<b>The Contractors shall make all reasonable endeavours to perform Additional Works as requested by the Owners and recorded in the <b>Change Order Forme Work Variation Form.</b> The Contractors shall, wherever possible, perform Additional Works within the Contract Period stated in <b>Box 6.</b> However, where the Parties agree that Additional Works will extend, or Reductions shorten, the Contract Period, the increase or decrease in Duration shall be recorded on a <b>Change Order Form Work Variation Form</b> and the Redelivery Termination Date will automatically be extended or shortened by the same period.</b>	59
	26	<b>The Owners Representative(s) may through written order make changes to the Works at any time without notice to the Contract. In the event of Additional Works or Reductions, the Contract Price shall be adjusted by agreement Between the Parties and recorded on a <b>Change Order Form Work Variation Form.</b> Where the Parties agree to Reductions, the Owners shall be credited with the equivalent of the cost saved as a result of such Reductions (see also <b>Clause 5(a)</b> (Price)). Contractor shall not receive compensation for additional repairs not specified in the Works unless the additional repairs and compensation were approved in writing by the Owners Representative(s) and accepted and signed by the Contractors prior to the commencement of the additional repairs.</b>	60
	27		61
	28		
	29		
	30		
	31		
	32		
	33		
	34		
	35		
	36		
	37		
	38		
	39		
	40		
	41		
	42		
	43		
	44		
	45		
	46		
(i)	47		
	48		
	49		
	50		
(ii)	51	<b>(vii) Except as specified in this Clause 2(a)(vii), no order, statement, or conduct of CGS or Government personnel who visits the Contractor's Yard or in any other manner communicates with the Contractor's personnel during the performance of the Contract shall constitute a change under this Contract. The Contractor shall not comply with any order, direction, or request of personnel unless it is issued in writing and signed by the CGS Contracting Officer, or is pursuant to specific authority otherwise included as part of this Contract. The CGS Contracting Officer is the only person authorized to approve changes in any of the requirements of this Contract and notwithstanding provisions contained elsewhere in this Contract, the said authority remains solely the CGS Contracting Officer's. In the event the Contractor effects any change at the direction of any person other than the CGS Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the Contract Price to cover any increase in charges incurred as a result thereof.</b>	78
			79
			80
			81
			82
			83
			84
			85

# **Exhibit A**

## PART II

### REPAIRCON Standard Ship Repair Contract

<b>(b)</b>	<u>Contractors' right to sub-contract</u>	86	<b>(i)</b>	The Vessel shall be delivered at a safe place nominated by the Contractors on the Delivery Date stated in <u>Box 8</u> , safely afloat and, unless otherwise agreed, gas free and/or inverted, free of cargo, slops, sludge, dirty ballast and of any substances in the structure of the Vessel in way of the Works which are dangerous or harmful to health. <b>The Contractor</b> <b>prior to performing the Works shall conduct tests</b> <b>carried out by a Certified Marine Chemist to show</b> <b>that the Vessel is free of dangerous and explosive</b> <b>gases. The Contractor shall provide the Owners</b> <b>Representative(s) with certified copies produced by</b> <b>the inspecting Certified Marine Chemist showing</b> <b>that the Vessel is free of dangerous and explosive</b> <b>gases.</b>	151
	Subject to the Owners' right to object on reasonable grounds, the Contractors shall have the right to employ sub-contractors to perform any works provided that the Contractors remain responsible for all of their sub- contractors' actions.	87			152
	In the event of such a sub-contract the Contractors shall remain liable for the due performance of their obligations under this Contract.	88			153
		89			154
		90			155
		91			156
		92			157
<b>(c)</b>	<u>Approvals and Certificates</u>	93	<b>(ii)</b>	<b>The Owners Representative(s) shall deliver the</b> <b>Vessel to a safe place agreed upon by the Parties.</b> <b>The Contractor shall provide tugs, pilots, docking</b> <b>master, line handlers, and other things necessary to</b> <b>move the Vessel into the pier or drydock. The</b> <b>Contractor shall provide tugs and pilots necessary</b> <b>for Redelivery of the Vessel. The Contractor shall</b> <b>provide tugs and pilots necessary to shift the Vessel</b> <b>within the Contractor's Yard during the Contract</b> <b>Period.</b>	
	(i) The Contractors shall be responsible for obtaining and maintaining all necessary approvals and certificates of whatsoever nature relating to the Works as required by the Contractors' regulatory bodies. The Owners shall provide any reasonable assistance that may be required in this respect.	94			
		95			
		96			
		97			
		98			
		99			
		100			
		101			
	(ii) The Owners shall be responsible for obtaining and maintaining any approvals or certificates relating to the Vessel and the Works as required by the Owners' regulatory bodies. The Contractors shall provide any reasonable assistance that may be required in this respect.	102			
		103			
		104			
		105			
		106			
		107			
<b>3.</b>	<b>Supervision and Owners' Work</b>	108	<b>(iii)</b>	The Owners shall keep the Contractors promptly advised of any changes to the Vessel's Delivery Date.	158
<b>(a)</b>	<u>Owners' Representatives</u>	109	<b>(iv)</b>	<b>The Vessel shall be drydocked within the first forty-</b> <b>eight hours of the Contract Period at a safe place</b> <b>agreed upon by the Parties.</b>	159
	(i) The supervision of the Works shall be carried out by the Owners' Representative(s) as stated in <u>Box 12</u> or such other person(s) as the Owners may from time to time appoint and notify to the Contractors in writing. The Owners shall have at least one representative present at the Contractors' Yard throughout the Works. The Owners' Representative(s) shall be authorised to act on behalf of the Owners in respect of all matters relating to the Contract, including but not limited to the approval of plans, drawings, calculations, and documents, and agreeing and signing <b>Change Order</b> <b>Work Variation</b>	110			
		111			
		112			
		113			
		114			
		115			
		116			
		117			
		118			
		119			
		120			
		121			
		122			
		123			
		124			
	(iii) The Vessel's Master shall be the Owners' Repre- sentative unless stated otherwise in <u>Box 12</u> .	125			
		126			
	<b>(iv) The Owners Representative(s) have the right to hire</b> <b>Sub-contractors to perform work not within the</b> <b>Works.</b>				
		127	<b>(ii)</b>	If, for any reason, the Vessel is not delivered to the Contractors on or before 1500 hours local time on the Cancellation Date stated in <u>Box 9</u> , the Contractors shall have the right, exercisable no later than 1700 hours local time the same day, to cancel this Contract and to recover any costs and expenses which they have reasonably incurred in the performance of the Contract up to the date of cancellation (including sums payable to Sub-contractors provided they were incurred with the Owners' prior written agreement) to the extent that such sums are not otherwise excluded under this Contract, and thereafter the Parties' obligations under this Contract shall be at an end.	164
		128			
		129			
		130			
		131			
		132			
	<b>(vi) The Contractors shall grant the Owners' Repre-</b> <b>sentative(s) reasonable access to the Contractors'</b> <b>workshops whenever work on the Vessel or parts of</b> <b>the Vessel is being carried out and shall ensure such</b> <b>reasonable access to any other premises or site</b> <b>where work is being carried out in connection with</b> <b>the Vessel. <b>The Owners Representative(s) and its</b></b> <b>agents shall have the right to use photographic</b> <b>equipment on the Vessel without restriction.</b>	133	<b>(ii)</b>	<b>Owners' Cancellation</b>	177
		134			
		135			
		136			
		137			
		138			
		139			
<b>(b)</b>	<u>Owners' Work</u>	140			
	Subject to prior written agreement with the Contractors, whose consent shall not be unreasonably withheld, the Owners, or the Master and crew, or any sub-contractor employed or engaged by the Owners, shall be entitled to carry out the Owners' own work on the Vessel, provided the Owners remain responsible for all of their actions and such work does not interfere with or delay the Works.	141			
		142			
		143			
		144			
		145			
		146			
		147			
		148			
<b>4.</b>	<b>Delivery, Redelivery and Acceptance of the Vessel</b>	149	<b>(c)</b>	<b>Redelivery</b>	195
<b>(a)</b>	<u>Delivery</u>	150		Redelivery of the Vessel to the Owners shall take place within the Contract Period.	196
			<b>(ii)</b>	Without prejudice to <u>Clause 7</u> (Guarantee), such	197
				inspections, tests and/or trials as are necessary for the purpose of determining whether the Vessel at Redelivery complies with the terms of this Contract	199
				shall be carried out prior to Redelivery in the presence	200
					201
					202

## PART II

### REPAIRCON Standard Ship Repair Contract

of the Owners' Representative(s). The Contractors shall keep the Owners advised of progress and the expected dates for Redelivery and Completion.	203 204 205	This Contract does not create privity between the Owners and the Contractor. The Contractor does not have the authority to enter into contracts on behalf of the Owners or the Owners Representative(s), and Contractor is relying solely on the credit of CGS for payment. This Contract is strictly for Vessel repairs or alterations and does not create an agency agreement beyond ship repair. See also SER 21.	272
(iii) Defects and defaults in the performance of the Works, shall be listed in a protocol prepared by the Parties. The Contractors shall at their cost rectify any such defects and defaults before Redelivery, unless the Owners can agree that completion of certain of the Works can take place after Redelivery.	206 207 208 209 210 211		273
(iv) Without prejudice to the provisions of <u>Clause 7</u> (Guarantee), at the date of Redelivery a Protocol of Redelivery and Acceptance shall be signed between the Parties which shall identify any Works to be completed after Redelivery.	212 213 214 215 216		274
<b>5. Financial Provisions</b>	217		275
(a) <b>Price</b>	218		276
(i) The Contract Price, as stated in <u>Box 10</u> , covers all items in the Specification Works for which a fixed price has been agreed.	219 220 221	(i) In the event that Redelivery is delayed beyond the Contract Period, the Contractors accept liability for liquidated damages in the sums stated in <u>Box 16</u> for each day of delay, subject to any maximum amount stated in <u>Box 16</u> , and subject always to the Contractors' Total Liability as stated in <u>Box 15(a)</u> . <b>The Liquidated damages shall apply for each day delayed which will be a 24-hour period commencing at the time set for the completion of work or any extension including Saturdays, Sundays, and holidays.</b>	277
(ii) Where a fixed price has not been quoted for any item in the Specification Works and/or Additional Works, the price shall be calculated by reference to the agreed Tariff, or if there is no agreed Tariff, reasonable rates applying in the location of the Contractors' Yard.	222 223 224 225 226 227	(ii) In the event that the Contractor fails to drydock the Vessel within forty-eight hours of the Contract Period the Contractor shall pay to the Operator 3,500 dollars per day that dry-docking is delayed beyond the first 48-hours. See SER 28.	278
(b) <b>Payment</b>	228	<b>Liquidated Damages, Liabilities and Indemnities</b>	279
(i) The Contract Price shall be payable by the Owners free of all taxes, bank charges, exchange control regulations and in the currency stated in <u>Box 10</u> , in accordance with the payment terms agreed in <u>Box 14</u> or, if no such terms are agreed, at Redelivery.	229 230 231 232 233	(a) <b>Liquidated Damages</b>	280
(ii) Any part of the Contract Price due between Redelivery and Completion shall be payable in accordance with the payment terms agreed in <u>Box 14</u> or, in the absence of such agreement, upon Completion.	234 235 236 237 238	(i) <b>Liquidated Damages</b>	281
(iii) If the payment terms agreed in <u>Box 14</u> require interim payments prior to Redelivery and the Owners fail to pay any such sums on the dates agreed, the Owners shall pay interest at the rate stated in <u>Box 17</u> on such outstanding sums. <b>Invoices covering work done to the Vessel submitted by the Contractor shall be submitted to the Owners Representative(s) no more than every 14 days and will be submitted and payed for in accordance to SER 25.</b> In the event that such sums (together with accrued interest) are not paid within 3 working days of their due date, the Contractors shall have the right to suspend work on this Contract without thereby incurring liability to the Owners until payment of outstanding sums (including accrued interest). The Contractors shall also have the right to recover from the Owners all direct and indirect costs arising from such suspension of work to the extent not otherwise contractually excluded.	239 240 241 242 243	(1) The Contractors shall only be liable to the Owners under this Contract when proven loss or damage has been caused by the negligence, gross negligence or wilful default of the Contractors or that of those for whom they are responsible <b>see also Attachment "A" Part II (a)(b).</b>	282
(iv) If the payment terms agreed in <u>Box 14</u> require payments to be made after Redelivery and the Owners fail to make any such payments, the Owners shall pay interest at the rate stated in <u>Box 17</u> and, failing payment of such outstanding sums (together with accrued interest) within 3 working days of their due date, any other payment instalments agreed to be payable at any later date shall become due immediately.	244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261	(2) Except in the event of prior cancellation or termination, the Contractors' liabilities arising out of or in connection with this Contract of whatsoever nature and howsoever arising shall cease upon Redelivery or, if later, Completion, except as provided in <u>Clause 7</u> (Guarantee) and <u>Clause 11(e)</u> (Intellectual Property).	283
(c) <b>Title to the Vessel</b>	262	(3) The Owners shall only be liable to the Contractors under this Contract when proven loss or damage has been caused by the negligence, gross negligence or wilful default of the Owners or that of those for whom they are responsible.	284
(i) Title to the Vessel shall remain at all times with the Owners.	263 264	(4) Any tests, trials or movements of the Vessel shall be at the Owners' sole risk and responsibility, and the Contractors shall not be under any liability whatsoever to the Owners for any loss, damage or expense resulting from such tests, trials or movements, unless caused by the intervention, act or omission of the Contractors.	285
(ii) <b>Except as provided in Clause 5(c)(iii),</b> Tthe Contractors shall not permit nor suffer any lien to be created on the Vessel as a consequence of their work or that of the Sub-contractors.	265 266 267 268	(5) Except as provided in <u>Clause 6(a)</u> (Liquidated Damages), in no circumstances shall either party's liability to the other party include any sum in respect of loss of hire, profit, use or business, or any similar direct, indirect or consequential loss, damage or expense arising out of or in connection with this Contract.	286
(iii) <b>The Contractors shall be entitled to exercise a lien on the Vessel for all sums due to the Contractors on or before Redelivery.</b>	269 270 271	(ii) <b>Liability for Death or Personal Injury</b>	287
(d) <b>Privity</b>		<b>Each party accepts responsibility and liability for the death or personal injury of its own personnel, and the personnel of those entities for whom they are responsible under this Contract, irrespective of the cause of death or personal injury, and whether or not caused by the negligence or gross negligence of the other party, or those entities for whom the other party are responsible under this Contract. Each party further agrees to indemnify and hold harmless the other party, as regards both liability and legal costs, in the event that the aforesaid personnel or their dependants pursue claims for death or personal injury against the party who is not responsible for them under this Contract.</b>	288
		<b>(1)The Contractor hereby indemnifies and holds</b>	289

## PART II

### REPAIRCON Standard Ship Repair Contract

<p><b>harmless the Owner and its agencies and instrumentalities, the Vessel, and the Owners Representative(s), against all suits, actions, claims, costs or demands including, without limitation, suits, actions, claims, costs, or demands resulting from death, personal injury and property damage arising out of or in any way related to or resulting in whole or in part from the fault, negligence, wrongful act, or wrongful omission of the Contractor, his or their servants, agents, or employees. Contractor shall provide the insurance coverages required under this Contract see Attachment "A" Part II (d).</b></p> <p><b>(2) Notwithstanding anything else contained in this Contract, CGS shall not be responsible for loss of, damage to, or any liability arising out of personal injury or death of any Contractors' employee, Sub-Contractor or damage to or loss of any property owned by any employee or Sub-Contractor arising out of or in any way connected with the performance of this Contract, even if such loss, damage, liability, injury or death is caused wholly or partially by the act, neglect or default of CGS, its agents or employees and even if such loss, damage, liability, injury or death is caused wholly or partially by the unseaworthiness of any vessel. The Contractors shall indemnify, protect, defend and hold harmless CGS from and against any and all claims, cost, expenses, actions, proceedings, suits, judgments, liens, demands and liabilities whatsoever arising out of or in connection with such loss, damage, personal injury or death. If any statutory provision or other operation of law prohibits enforcement of this indemnity, it shall be valid to the extent it has not been void.</b></p> <p><b>(iii) <u>Third Parties Third Parties</u></b></p> <p class="list-item-l1">(1) Each party agrees to indemnify the other party against all claims made against the other party by third parties (being those individuals and entities for whom neither party is responsible under this Contract) in any way related to this Contract, where such claims are caused by, or to the extent that they are contributed to by the indemnifying party's negligence, gross negligence or wilful default or that of those for whom it is responsible under the terms of this Contract.</p> <p class="list-item-l2">(1) <b>Attachment "A" Part II (c) shall apply.</b></p> <p class="list-item-l1">(2) The indemnifying party shall bear the expense of investigations and defences of all claims against which the other party is indemnified under <u>sub-clause (1)</u> above and all lawsuits arising therefrom including the legal costs of the indemnified party.</p> <p><b>(iv) <u>Contractual Limitation</u></b></p> <p class="list-item-l1">(1) Except as provided in <u>Clause 7</u> (Guarantee) and <b>Attachment "A" Part II</b>, the Contractors' liability arising out of or in connection with this Contract shall be limited to the Contractors' Total Liability as stated in <u>Box 15(a)</u>.</p> <p class="list-item-l1">(2) The Owners' liability arising out of or in connection with this Contract shall be limited to the Owners' Total Liability as stated in <u>Box 15(b)</u>.</p> <p><b>(v) <u>Employees, Servants, Agents and Sub-contractors</u></b></p> <p>The limitations on each party's liability in this <u>Clause 6(b)</u> (Liabilities) shall also apply to the liability of those for whom that party is responsible under this Contract. Each party further agrees that it will not, and will ensure that those for whom it is responsible do not, circumvent the aforesaid limitations and allocation of responsibility by taking legal proceedings against the employees, servants or agents of the other party, and to this extent each party shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons.</p> <p><b>(c) <u>Limitation</u></b></p> <p>Nothing herein contained shall affect any right that the Parties may have to limit their liability under any statutory</p>	<p>enactment for the time being in force.</p> <p><b>7. <u>Guarantee</u></b></p> <p class="list-item-l1">(a) The guarantee shall apply to the Works performed and materials supplied by the Contractors and, for the avoidance of doubt, by the Sub-contractors.</p> <p class="list-item-l1">(b) Pursuant to the guarantee, the Contractors shall be responsible for repairing defects in materials, equipment and workmanship existing at the time of Redelivery or, if later, Completion, provided always that notice of complaint in respect of such defects is received in writing by the Contractors within the number of months stated in <u>Box 13</u> from the date of Completion.</p> <p class="list-item-l1">(c) If the defect has led to damage to the Vessel or any part thereof, the repair obligation shall extend to repair or renewal of the Vessel's part(s) that have been damaged as a direct consequence result of the defect.</p> <p class="list-item-l1">(d) In cases where the Contractors are liable for defects as provided in this <u>Clause 7</u>, the Owners shall be entitled to have the work and the replacements carried out at any yard or workshop, other than the Contractors' if, in the reasonable opinion of the Owners, such work and the replacements need to be effected promptly and it is not practicable or cost effective for the Owners to bring the Vessel to the Contractors' Yard. The Contractors' liability in such cases shall solely be to pay directly or reimburse the actual cost <b>which if performed at Contractor's Yard would have been</b> incurred for such work and the replacements provided always that before committing the Vessel to another yard or workshop the Owners shall:</p> <p class="list-item-l2">(i) Notify the Contractors of their intention to do so and request such assistance as the Contractor may be able to offer in order to minimise the cost;</p> <p class="list-item-l2">(ii) Use reasonable endeavours to ensure that the cost does not exceed the cost of having the same work carried out at the Contractors' Yard.</p> <p class="list-item-l1">(e) In any case the Vessel shall be taken at the Owners' cost and responsibility to the place elected, ready in all respects for the guarantee work to be commenced.</p> <p class="list-item-l1">(f) When repairs or renewals are performed by the Contractors pursuant to this <u>Clause 7</u>, the Contractors shall guarantee such repairs or renewals on the same terms as this <u>Clause 7</u>.</p> <p><b>8. <u>Disruptions</u></b></p> <p class="list-item-l1">(a) The Contract Period shall be extended when any of the following events cause delay to the Contractors' performance of the Works, provided always that the Contractors shall have complied with <u>Clause 8(b)</u> hereunder and shall have made all reasonable efforts to avoid or minimise the effects such events may have on the performance of the Works:</p> <p class="list-item-l2">(i) <b>Force Majeure events</b></p> <p class="list-item-l3">(1) acts of God;</p> <p class="list-item-l3">(2) any Government requisition, control, intervention, requirement or interference;</p> <p class="list-item-l3">(3) any circumstances arising out of war, threatened act of war or warlike operations, acts of terrorists or the consequences thereof;</p> <p class="list-item-l3">(4) riots, civil commotions, blockades or embargoes;</p> <p class="list-item-l3">(5) epidemics;</p> <p class="list-item-l3">(6) earthquakes, landslides, floods or other extraordinary weather conditions;</p> <p class="list-item-l3">(7) strikes, lockouts or other industrial action, but only if of a general nature and not limited to the Contractors and/or the Sub-contractors;</p> <p class="list-item-l3">(8) fire, accident, explosion (whether in the Contractors' Yard or elsewhere) except where caused by the proven negligence of the Contractors and/or the Sub-contractors.</p> <p class="list-item-l2">(ii) <b>Other events</b></p> <p class="list-item-l3">(1) failure of the Owners and/or Owners' regulatory bodies to review/approve technical information within a reasonable time;</p> <p class="list-item-l3">(2) suspension of the Works pursuant to <u>Clause</u></p>	
		368
		369
		370
		371
		372
		373
		374
		375
		376
		377
		378
		379
		380
		381
		382
		383
		384
		385
		386
		387
		388
		389
		390
		391
		392
		393
		394
		395
		396
		397
		398
		399
		400
		401
		402
		403
		404
		405
		406
		407
		408
		409
		410
		411
		412
		413
		414
		415
		416
		417
		418
		419
		420
		421
		422
		423
		424
		425
		426
		427
		428
		429
		430
		431
		432
		433
		434
		435
		436
		437
		438
		439

## PART II

### REPAIRCON Standard Ship Repair Contract

	<b>5(b)(iii) (Payment);</b>	440			
(3)	failure of the Owners to deliver the Vessel in the condition stipulated in <u>Clause 4(a)(i)</u> (Delivery);	441 442 443	(ii)	<u>Clause 9(c)</u> (Deemed Insolvency); or	507 508 509
(4)	breach of <u>Clause 3(a)(ii)</u> (Owners' Representatives);	444 445		without lawful excuse, the Owners (A) fail to pay any sums due under the Contract for a period of 5 days provided that thereafter the Contractors give the Owners at least 2 days written notice of their intention to terminate under this <u>Clause 9(b)</u> , and within that period Owners fail to remedy the breach, or (B) clearly indicate their intention not to perform the Contract; or	510 511 512 513 514 515
(5)	disruption of the Works in breach of <u>Clause 3(b)</u> (Owners' Work);	446 447	(iii)	there is damage to the Contractors' property in the course of the Works for which the Owners are liable under the terms of the Contract and the reasonably estimated cost of repairing the damage exceeds the Owners' Total Liability.	516 517 518 519 520
(6)	late delivery of any items to be supplied by the Owners.	448 449		Thereupon the Contractors shall be entitled to recover any unpaid part of the Contract Price that relates to the Works performed up to the date of termination, together with (A) any losses they may suffer, or liability to Sub-contractors and others they may incur, by reason of the termination except as otherwise excluded, and (B), pending payment of (A), their reasonable costs of accommodating the Vessel, but (A) and (B) being subject always to Owners' Total Liability.	521 522 523 524 525 526 527 528 529
<b>(b)</b>	The Contractors shall notify the Owners in writing within 2 working days of the occurrence of any event of delay, on account of which the Contractors assert that they are entitled to claim an extension of the Contract Period. A failure to so notify shall bar the Contractors from claiming any extension to the Contract Period. The Contractors shall also advise the Owners in writing (A) within 2 working days of the ending of any event notified under this clause that the event has ended, and (B) as soon as reasonably possible after (A), the length of extension of the Contract Period claimed by the Contractors.	450 451 452 453 454 455 456 457 458 459 460 461			
<b>9. Termination</b>		462 463	<b>(c)</b>	<b>Deemed Insolvency</b>	530
(a)	<b>Contractors' Default</b>	464		Either party shall be deemed insolvent (the "Insolvent Party") if it (A) makes any voluntary arrangement with its creditors or becomes subject to an administration	531 532 533
	The Owners shall be entitled to terminate the Contract by notice in writing to the Contractors in the event that:	465		order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or (B) an encumbrancer takes possession of, or a receiver is appointed in respect of any of the Insolvent Party's property or assets; or (C) the other party reasonably apprehends that any of the events mentioned in (A) or (B) above is about to occur in relation to the Insolvent Party and, after notification to the Insolvent Party is not reasonably satisfied as to its continuing creditworthiness and/or is not provided with suitable guarantees.	534 535 536 537 538 539 540 541 542 543
	(i) the Contractors are deemed insolvent pursuant to <u>Clause 9(c)</u> (Deemed Insolvency); or	466			
	(ii) <u>without lawful excuse, the Contractors (A) fail to</u>	467 468			
	<u>perform the Works or any substantial part of them for a running period of at least 5 days, provided that thereafter the Owners give the Contractors at least 2 days written notice of their intention to terminate under this Clause 9(a), and within that period the Contractors fail to remedy their breach, or (B) clearly indicate their intention not to perform the Contract; or</u>	469 470 471 472 473 474 475 476			
	<b>Without lawful excuse, the Contractor fails to perform the Works or any substantial part of them within the Contract Period or any extension, or fail to perform the Contract in accordance with the Works. The Owners Representative(s) may terminate the Contract by providing written notice of intention to terminate under this Clause 9(a).</b>				
(iii)	the Contractors fail to redeliver the Vessel in the condition required by the Contract by the Redelivery Termination Date stated in <u>Box 19</u> (if any), as may be adjusted pursuant to <u>Clauses 2(a)(iii)</u> and <u>8(a)(ii)</u> (Other events); or	477 478 479 480 481	<b>(d)</b>	<b>Notwithstanding anything otherwise in this Clause 9, nothing in this Clause 9 shall prejudice Owners' or U.S. Government's rights under FAR 52.249-2.</b>	544
(iv)	there is damage to the Vessel in the course of the Works for which the Contractors are liable under the terms of the Contract and the reasonable estimated cost of repairing such damage exceeds the Contractors' Total Liability.	482 483 484 485 486			
	Thereupon the Owners shall be obliged to pay any part of the Contract Price that relates to the Works performed up to the date of termination. However, the Owners shall be entitled to set-off against which payment (A) any sums payable pursuant to <u>Clause 6(a)</u> , and (B) any losses and/or claims not otherwise excluded which they may suffer by reason of the termination. To the extent that (A) and (B) exceed the Contractors' Total Liability, the Owners shall be discharged from their obligation to pay an equivalent sum out of any unpaid part of the Contract Price. Thereafter, notwithstanding the provisions of <u>Clause 5(c)(iii)</u> , the Owners shall have the right to remove the Vessel from the Contractors' Yard without hindrance or interference by the Contractors or those for whom they are responsible.	487 488 489 490 491 492 493 494 495 496 497 498 499 500 501	<b>10. Insurance</b>		
	<b>(a)</b>	<b>Contractors' Insurances</b>	545		
		The Contractors shall effect and maintain, at no cost to the Owners, ship repairers liability insurance providing coverage for such loss and damage for which the Contractors may be held liable to the Owners under this Contract and shall, at the Owners' request, make immediately available to the Owners copies of insurance policies to provide evidence and details of cover.	546 547 548 549 550 551 552		
	<b>(b)</b>	<b>Owners' Insurances</b>	553		
		The Owners shall effect and maintain, at no cost to the Contractors, Protection and Indemnity Insurance, Hull and Machinery Insurance and War Risks Insurance and providing full coverage for such loss and damage for which the Owners may be held liable to the Contractors under this Contract and shall, at the Contractors' request make immediately available to the Contractors copies of insurance policies to provide evidence and details of the cover.	554 555 556 557 558 559 560 561 562		
	<b>(a)</b>	<b>Owners' Insurance</b>			
		The Owners shall effect and maintain, at no cost to the Contractors, Protection and Indemnity insurance, and War Risk. At the Contractors request the Owners shall make immediately available to the Contractors copies of insurance policies to provide evidence and details of the cover.			
	<b>Contractor's Insurances</b>				
		Contractor, at its sole cost and expense (including the cost of all deductibles), shall procure and maintain in force during the term of this Contract required by this Contract as stated in Attachment "A" Part II (d).			
	<b>(b)</b>				
	<b>11. Sundry Provisions</b>		563		
	<b>(a)</b>	<b>Assignment</b>	564		
		Neither party shall have the right to assign this Contract	565		

## PART II

### REPAIRCON Standard Ship Repair Contract

or any rights thereunder to a third party without the  (b) written consent of the other party, which consent shall not be unreasonably withheld.  (c) <u>Severance</u> If by reason of any enactment or judgment any provision of this Contract shall be deemed or held to be illegal, void or unenforceable in whole or in part, all other provisions of this Contract shall be unaffected thereby and shall remain in full force and effect.  (d) <u>No Waiver</u> No failure or forbearance of either of the Parties to exercise any of their rights or remedies under this Contract shall constitute a waiver thereof or prevent the Parties from subsequently exercising any such rights or remedies in full.  (e) <u>Entire Agreement</u> This Contract constitutes the entire agreement between the Parties and no promise, undertaking, representation, warranty or statement by either party prior to the date of this Contract shall affect the Contract nor shall any modification of this Contract be of any effect unless in writing signed by or on behalf of the Parties.  (f) <u>Intellectual Property</u> (i) The Contractors have ownership of drawings, casting patterns, data regarding weights and volumes, information regarding prices and any other data which it has prepared or produced in connection with this Contract. The Owners may at all times use the same in subsequent work on the Vessel or sister vessels. Subject to payment of the copying expenses, the Owners may require the Contractors to supply copies of this material. The Contractors may not make any of this material available to third parties without the prior written consent of the Owners, such consent not to be unreasonably withheld where disclosure is necessary for the completion of the Works. (ii) The Owners shall ensure that the manufacturing and/or supplying according to drawings, models or other instructions supplied by them shall not infringe any trade mark, patent or similar rights of third parties. Should claims nevertheless be made against the Contractors in this respect the Owners shall keep the Contractors indemnified against the cost to the Contractors of such claims, including any legal costs incurred by them in connection therewith. (iii) Except as provided for in <u>Clause 11(e)(ii)</u> , the Contractors hereby agree to indemnify the Owners against the cost to the Owners of any claims, including legal costs incurred by the Owners in connection therewith based on any alleged infringement of trademarks, patents or any other protected rights, arising out of or in any way related to the Contractors' performance of the Works.  (g) <u>Unused Materials Scrap Materials</u> Scrap metal materials removed from the Vessel pursuant to the Works shall become the Contractors' property except for propellers, tailshafts and heavy machinery parts. Unused materials shall be removed from the Vessel pursuant to SER 09 and will remain the property of the Owners. Unused materials shall be designated as Owners property by Owners Representative(s) as stated in Box 12 in accordance to SER 09.  (h) <u>Headings</u> The headings to the clauses and appendices to this Agreement are for convenience only and shall not affect its construction or interpretation.  (i) <u>Warranty of Authority</u> The Contractors and the Owners each warrant and represent that the person whose signature appears in Part I above is its representative and is duly authorized to execute this Agreement as a binding commitment of such party.  (j) <u>Modifications</u> No modification of this Agreement shall be valid unless such modification is in writing and signed by the parties hereto.	<p>566</p> <p>567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623</p> <p>12. <b>BIMCO Dispute Resolution Clause</b></p> <p><b>Law and Jurisdiction/Dispute Resolution</b></p> <p>* (a) This Contract shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Contract shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re- enactment thereof save to the extent necessary to give effect to the provisions of this Clause. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceed- ings are commenced. The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement. Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator. In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.</p> <p>This Contract shall be governed by and construed in accordance with Title 9 of the United States Code and the general maritime law of the United States (and to the extend inapplicable, interstitially, by the laws of the State of New York, without regard to its choice of law and conflict of laws rules), except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR; or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal Government.</p> <p>This Contract shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Contract shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.</p> <p>In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.</p> <p>Owners and Contractors agree to timely notify each other of any claim, counterclaim, demand, cause of action, dispute, or</p>	<p>624</p> <p>625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661</p> <p>662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679</p>
---	---	--

## PART II

### REPAIRCON Standard Ship Repair Contract

<p><b>any other controversy arising out of or in any way relating to this Contract or to the subject matter of this Contract (each a Dispute), and to negotiate in good faith to resolve any such Dispute.</b></p> <p>* (c) This Contract shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Contract shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.</p> <p>All Disputes which are not disposed of by mutual agreement in accordance with subparagraph (b) above within six (6) months may be decided by recourse to mediation, arbitration or an action at law, in equity or in admiralty in accordance with subparagraphs (d) and (e) below. Until final resolution of any such Dispute, Contractors shall diligently proceed with the performance of this Contract if so directed by Owners.</p> <p>(d) Notwithstanding 12(a), 12(b) or 12(c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Contract.</p> <p>In the case of a dispute in respect of which arbitration has been commenced under 12(a), 12(b) or 12(c) above, the following shall apply:</p> <ul style="list-style-type: none"> <li>(i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.</li> <li>(ii) The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.</li> <li>(iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.</li> <li>(iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.</li> <li>(v) Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.</li> <li>(vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.</li> <li>(vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.</li> </ul> <p>(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.) With respect to any Dispute involving the U. S. Government, or any of its subdivisions or agencies (the Government), arising out of or in any way relating to the terms, performance, conditions or interpretations of the Prime Contract, Contractors agree to be bound to Owners and the Government in the same manner and to the same extent as Owners are bound to the Government under the terms of the Prime Contract,</p>	<p>including any and all litigation, arbitration, determinations, orders, judgements, and decisions authorized therein. In any such arbitration or other proceeding wherein the Government is a party, Contractors agree, at the request of Owners, to prepare and present Owners case, at Contractors expense, to the extent the proceedings relate to this Contract.</p> <p>(e) If Box 18 in Part I is not appropriately filled in, clause 12(a) of this Clause shall apply. Clause 12(d) shall apply in all cases. Any other Disputes shall be resolved by binding arbitration. A Dispute must be resolved through arbitration regardless of whether the Dispute involves claims that this Contract is non-arbitrable, unlawful, unenforceable, void, or voidable or involves claims under statutory, civil or common law. The validity, construction and interpretation of this agreement to arbitrate, and all other procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitral tribunal. The arbitration shall be conducted under the arbitration rules (the Rules) of the Society of Maritime Arbitrators, Inc. (the SMA) and administered by the SMA. The arbitration shall be conducted by three neutral arbitrators. The claimant shall appoint an arbitrator with its demand for arbitration, and the respondent shall appoint an arbitrator with its answering statement. The two party-appointed arbitrators shall appoint a third arbitrator to chair the arbitration. If the party-appointed arbitrators are unable to agree upon a third arbitrator within 15 days of the appointment of the second arbitrator, or if a party does not appoint an arbitrator, then the remaining arbitrator(s) shall be appointed in accordance with the Rules. The arbitration shall be held in New York, New York and conducted in the English language. The award shall be final and binding and may be enforced by any court of competent jurisdiction. The parties agree that service of process may be accomplished in any enforcement action by using the notice provisions of this Contract or any other means authorized by law. The parties agree that the award may be enforced in any jurisdiction where the party against whom the award is sought to be enforced has assets that may be available to satisfy the award, and they waive any objections they may have to personal jurisdiction, venue or inconvenient forum for any action brought in those jurisdictions. The arbitral tribunal is authorized to award the costs of the arbitration, including reasonable costs and attorneys fees, to the prevailing party. The award shall include pre-judgment interest at the discretion of the arbitrators, and interest shall accrue until the date the award is paid in full. If a court enters judgment on an award, thereafter interest shall accrue at the statutory rate applicable to judgments entered by such court. Any arbitral award issued pursuant hereto may be enforced pursuant to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958 or, if that Convention is not applicable, then pursuant to the Inter-American Convention on International Commercial Arbitration. Notwithstanding the foregoing, should one party fail or refuse to Arbitrate, the other shall have the right to file suit in the United States District Court of the Southern District of New York, located in Manhattan to seek legal redress.</p>
<p>* Clauses 12(a), 12(b) and 12(c) are alternatives; indicate alternative agreed in Box 18.</p>	
<p>738 739</p>	
<p>740 741 742 743 744 745</p>	

**PART II**  
**REPAIRCON Standard Ship Repair Contract**

may be given by any effective means including, but not limited to, cable, telex, fax, e-mail, registered or recorded

746  
747

mail, or by personal service.

Attachment A to BIMCO REPAIRCON dated 24 August 2018  
 By and between Crowley Government Services, Inc., Managers,  
 And Detyens Shipyards, Inc., Contractor

**Crowley Government Services, Inc. (CGS) Terms and Conditions for Drydocking**

- **PART I:** CGS Commercial Procurement Clauses (SER)
- **PART II:** Liability, Indemnity, and Contractor Insurance for Shipyards/Vessels
- **PART III:** Terms and Conditions (Supplemental) - Environmental Handling, Transportation, and Disposal of Hazardous and Regulated Materials

**PART I: Crowley Government Services, Inc. (CGS) Commercial Procurement Clauses (SER):**

SER Clause Index:

SER 01 - CONTRACTOR STATUS/WORKMANSHIP  
 SER 02 - CONTRACTOR REMOVALS  
 SER 03 - COMMERCIAL MARINE PRACTICE  
 SER 04 - TANK CLEANING  
 SER 05 - OSHA/EPA REGULATIONS APPLICABLE  
 SER 06 - VESSEL CLOSURES IN DRYDOCK  
 SER 07 - CONTRACTOR USE OF SHIP'S FACILITIES  
 SER 08 - CONTRACTOR SAFETY RESPONSIBILITIES/LIABILITIES  
 SER 09 - OWNER'S SALVAGE/SCRAP RIGHTS  
 SER 10 - CONTRACTOR'S WARRANTEE  
 SER 11 - CHANGES, PRIOR AUTHORIZATION REQUIRED  
 SER 12 - FREE OF ALL CLAIMS, LIENS OR FINES  
 SER 13 - FINANCIAL CAPABILITY REQUIREMENT  
 SER 14 - INTELLECTUAL PROPERTY  
 SER 15 - FEDERAL, STATE AND LOCAL TAXES  
 SER 16 - NOTICE TO PROCEED/PERFORMANCE PERIOD  
 SER 17 - TIME EXTENSIONS/PERFORMANCE PERIOD  
 SER 18 - DRYDOCK FACILITY REQUIREMENTS  
 SER 19 - MASTER AGREEMENT CANCELLATIONS  
 SER 20 - CONFLICT OF CONTRACT TERMS  
 SER 21 - MARITIME LIENS  
 SER 22 - LIEN RELEASES  
 SER 23 - GOVERNMENT-REQUIRED CLAUSES  
 SER 24 - COMPLIANCE WITH EMPLOYMENT LAW  
 SER 25 - FINANCING/PAYMENT TERMS  
 SER 26 - SHIP DELIVERY/REDELIVERY  
 SER 27 - SHIPYARD/INDUSTRIAL ASSISTANCE CLAIMS CLAUSE  
 SER 28 - LIQUIDATED DAMAGES

SER 29 - RED LETTER CLAUSES; WAIVER; EFFECT  
 SER 30 - EQUAL EMPLOYMENT OPPORTUNITY

**SER 01 - CONTRACTOR STATUS/WORKMANSHIP:** Except as otherwise provided in the Specifications, the Contractor, as an independent Contractor and not as an agent or employee of CGS or the Owner, shall furnish all labor, materials, supplies, equipment, facilities and services required to perform and fully complete, and shall perform and fully complete, all work covered by the Specifications to meet the requirements of the American Bureau of Shipping, the United States Coast Guard, and all United States governmental agencies or other regulatory agencies having jurisdiction in the premises and to the satisfaction of CGS or its representative, in order that the Vessel at the time of the completion of the Work may have the highest classification and rating for a vessel of its type by the American Bureau of Shipping, insofar as the classification and rating of the Vessel may be dependent upon the Work called for in the plans and Specifications and approved changes therein. All workmanship and /or material shall be the best quality and in accordance with best commercial marine practices. The Contractor may not be listed as Debarred, Suspended, or proposed for Debarment as published by the Department of the Treasury as posted at [www.sam.gov](http://www.sam.gov).

**SER 02 - CONTRACTOR REMOVALS:** If the removal or shifting of any parts of the Vessel or her fittings, appurtenances, stores, etc., is required for the carrying out of the Work covered by the Specifications, same shall be done by the Contractor and all such removals shall be subsequently replaced and any damage or loss resulting therefrom shall be made good by the Contractor at its sole expense, subject to the limitations stated in SERs 8 and 10 hereof. Should any portion of the Vessel's structure, housing, fixtures, or equipment require alteration in order to carry out the Work covered by the Specifications, the Contractor shall make such alteration together with necessary replacement without additional cost to CGS.

**SER 03 - COMMERCIAL MARINE PRACTICE:** The Contractor shall be responsible for and shall pay all expenses of shifting, dry docking, wharfage, towage, dockage, running lines, water testing and/ or refilling tanks and/or boilers, and/or disposal and removal of garbage and other such items to the extent the same are the Contractor's responsibility in accordance with normal commercial marine practice. Should the Work covered by the Specifications make it impracticable to use the Vessel's machinery and /or boiler plant for supplying steam and/or electric lighting, the Contractor shall supply such steam and/or electric lighting as may be necessary at no additional charge to CGS. When the Work covered by the Specifications is performed at the Vessel's loading and/or discharging berth, the Contractor is relieved from responsibility for and the expense of the aforementioned items to the extent the same is CGS's responsibility in accordance with normal commercial marine practice.

Shifting and Towing (when applicable): Contractor shall provide necessary tow preparation, towing gear, tugs, pilots, riding crew, and line handlers, plus all required equipment and permits to pick up the Vessel at its lay berth and deliver it to the Contractor's facility as a Dead Ship. It shall be the Contractor's responsibility (not less than 48 hours prior to towing) to:

- 1.) Obtain USCG load-line exemption and "Permit to Proceed";
- 2.) Obtain standard towing liability insurance, with appropriate deductible and limits; and
- 3.) Provide documents to the SM Port Engineer that verify that items (1) and (2) above have been completed, including a Certificate of Insurance in accordance with the Contract.

For all tows to and/or from Contractor's repair facility, Contractor shall retain an independent marine consultant recognized by Contractor's insurance carrier to provide recommendations for suitability for a tow trip, and Contractor shall comply with said recommendations.

All Vessel moves are for the Contractor's account. All disconnections and reconnections of services to the Vessel are for the Contractor's account. Contractor shall install shaft and rudder locks prior to each tow and provide warranty survey or certification where applicable. Upon the Vessel's return to the lay berth, Contractor shall restore to their original configuration any alterations to D/H System or weather closures required for each tow. The riding crew shall be equipped with three (3) portable radio transceivers of the same frequency, one to be stationed at the Vessel's bow, one at the stern, and one with an attendant alongside the pilot on the bridge.

The Contractor is responsible for coordination with the Port Authorities and the cognizant authority/-ies at any contemplated lay berth. Contractor shall provide tugs, pilots, and line handlers for all arrivals, departures, and as required to shift the Vessel for performance of the Work during the Contract Period to and from the dry dock. Contractor shall provide labor to handle lines and gangways for all moves.

**SER 04 - TANK CLEANING:** All tanks under alteration and/or repair shall be gas-free, cleaned and/or washed and/or steamed by the Contractor as may be necessary before any work is done thereto and the oil or water tightness of the portion of the tanks affected by repairs shall be proven to the satisfaction of the American Bureau of Shipping and of CGS or its accredited representative. Contractor shall use the services of a Certified Marine Chemist to inspect all the tanks and confined areas on the Vessel, including all tanks, compartments and void spaces that are opened to be entered as a result of work and regulatory inspections of repairs. The Contractor shall furnish inspection prior to performance of work and provide CGS and the Master of the Vessel with copies of the certificates showing compartments of the Vessel to be free of explosive and dangerous gases. Contractor shall be responsible for additional cleaning if necessary to make the Vessel free of dangerous and explosive gases.

**SER 05 - OSHA/EPA REGULATIONS APPLICABLE:** The Contractor agrees to comply with all applicable safety, health and environmental regulations pertaining to ship repair during the entire performance period. (See SER 18 - Federal Contractual Requirements)

**SER 06 - VESSEL CLOSURES IN DRY DOCK:** While the Vessel is in dry dock, the Contractor shall be responsible for the proper closing of all openings in the Vessel's underwater body and shall keep the crew adequately informed of such; provided, however, that the Vessel's crew shall notify the Contractor prior to making any changes in openings, transfers of weights, or shifting of ballast.

**SER 07 - CONTRACTOR USE OF SHIP'S FACILITIES:** In case any of the Vessel's machinery, equipment or fittings, such as winches, pumps, rigging, pipe lines, etc., is used by the Contractor, the Contractor shall repair or replace any damaged machinery, equipment, or fittings resulting from such use, subject to the limitations stated in SER 8 and SER 10 of this Attachment A.

**SER 08 - CONTRACTOR SAFETY RESPONSIBILITIES/LIABILITIES:**

- a. The Contractor shall inspect all work areas and use its best efforts to prevent accidents, injury or damage to all employees, persons, and property in and about the Work covered by the Specifications and to the portion of the Vessel upon which the work is done. Contractor further agrees that through its foremen, supervisors, or other responsible representatives it will notify CGS at once if any condition is or creates an unsafe, dangerous, or improper place in which to work, and assume the responsibility for seeing that such condition is corrected before proceeding with the Work. All equipment that presents a hazard or potential hazard to personnel shall have suitable protective devices installed. These may be carrier guards or other approved devices and shall preclude personnel injury. Examples of equipment requiring protective devices are those which contain exposed rotating parts, fan blades, belts, pulleys, flywheels, etc.
- b. ALL NEW MATERIAL MUST BE CERTIFIED ASBESTOS-FREE. If a material containing asbestos is inadvertently identified on a Contract Guidance Drawing or other document, it shall be the Contractor's responsibility nevertheless to substitute an otherwise equivalent non-asbestos-containing material. Contractor is responsible for all costs associated with the provision of asbestos-free material, whether or not provided for in the Specifications.
- c. The Contractor assumes all the risks of, and shall be responsible for, any and all damage or injury (including death) to persons or property caused by the negligence of the Contractor, its Subcontractors, their respective agents, employees, and any other persons for whose acts Contractor is liable in performing any of the Contractor's obligations set forth in the Specifications and/or these Terms and Conditions. The Contractor shall indemnify and hold harmless CGS, the Vessel, her owners, and their respective employees, directors, officers, underwriters, agents, and assigns against all liability, suits, actions, claims, costs or demands of any nature and description to which any of them may be subject to by reason of damage or injury (including death) to any person or property not covered by the U.S. Longshoremen's and Harbor Workers' Compensation Act as amended (33 U.S.C. § 901 *et seq.*), caused by the negligence of the Contractor, its Subcontractors, their agents, employees, and/or any other persons for whose acts Contractor is liable in performing any of the Contractor's obligations set forth in the Specifications and/or these Terms and Conditions.
- d. The Contractor shall be responsible for and make good at its own cost and expense any and all loss or damage of whatsoever nature to the Vessel (or part thereof), its equipment, movable stores and/or cargo, and CGS's materials and equipment, resulting from the

negligence of Contractor, any of its Subcontractors, or their respective agents and/or employees in performing any of the Contractor's obligations.

e. CERTIFICATE OF INSURANCE MINIMUM INSURANCE COVERAGE: *See* TERMS AND CONDITIONS PART II: Liability, Indemnity, and Contractor Insurance for Shipyards/Vessels.

**SER 09 - OWNER'S SALVAGE/SCRAP RIGHTS:** Contractor shall advise the CGS representative of any equipment, fittings, attachments, or materials which are to be removed for disposal. Disposition of these items will be determined on a case-by-case basis as directed by the United States of America's authorized representative. The Owners' Representative(s) will determine and designate whether any unused material is Scrap Material or Salvage Material. The deposition of Scrap Material will be directed by the Owners' Representative(s) and will consist of one of the following methods: (1) Purchase by the shipyard or repair facility at the prevailing market price; (2) Public sale by the shipyard or repair facility at not less than the fair market value thereof; or (3) Transfer to the nearest DOD disposal activity. Material designated as Salvage Material will be directed by the Owners' Representative(s) and may consist of one of the following: (1) Load salvageable items aboard the vessel; (2) Transfer to a DOD disposal activity; (3) Abandonment in plant; or (4) Packing, crating, and transshipment to a location directed by the Government.

**SER 10 - CONTRACTOR'S WARRANTY:** In case any work done or material furnished by Contractor or any of its Subcontractors shall, within six (6) months from the date of the acceptance of the work or materials by CGS, prove defective or deficient, and be so reported to the Contractor in writing within that time, such defects or deficiencies shall, at the Contractor's expense, be made good to the satisfaction of CGS. If the Work has not yet been completed and the Vessel is still at Contractor's facility, upon written notice of a warranty defect or deficiency, the Contractor shall take the necessary and reasonable actions to repair the warranty defect or deficiency within four (4) business days. The liability of the Contractor to CGS hereunder on account of such omissions, defects or deficiencies shall not exceed the actual repair or replacement thereof. CGS will, if and when practicable, afford the Contractor an opportunity to correct such defects or deficiencies; but, when, because of the condition or location of the Vessel or for any other reason, it is impracticable or undesirable to return the Vessel to the Contractor, such correction shall be effected at the Contractor's expense at such other location or locations and by such other contractor or contractors as CGS in its sole discretion may determine.

**SER 11 - CHANGES, PRIOR AUTHORIZATION REQUIRED:** No additional or extra work shall be performed, nor shall any change be made in the Work covered by the Specifications, unless authorized in writing by CGS prior to the performance of such additional, extra, or changed work. There will be no direct communications between Contractor and the U.S. Government agency that owns the Vessel relating to this Contract that could result in a contract change (constructive or actual), unless specifically authorized by CGS in advance in writing. This does not limit any statutory or regulatory provision.

**SER 12 - FREE OF ALL CLAIMS, LIENS OR FINES:** Upon completion of the work covered by the specifications, the Vessel shall be free and clear of all fines, claims, and liens in

favor of unpaid workers, Subcontractors, or materialmen of any nature resulting from or in any way related to the performance of such work.

**SER 13 - FINANCIAL CAPABILITY REQUIREMENT:** Upon CGS's request, the Contractor shall supply evidence satisfactory to CGS in the form of a bond, letter of undertaking, or letter of credit, at CGS's sole option, that the Contractor is financially able to satisfy all of its obligations relative to the Work covered by the Specifications.

**SER 14 - INTELLECTUAL PROPERTY:** The Contractor shall pay for and protect the Vessel, the United States of America, and CGS against any claim for royalties, patent rights, and patent liability arising as a result of the performance of the Work covered by the Specifications, except in respect of claims relating to components or processes required thereby to be installed or used.

**SER 15 - FEDERAL, STATE AND LOCAL TAXES:** The Contractor shall pay all United States, County, City or other taxes, assessments or duties assessed, made or levied against the material to be used in the performance of the work covered by the specifications, or imposed in consequence of its sale to the Contractor, as may be applicable. Purchases made by the Contractor under this Contract are NOT EXEMPT from state and local taxes because such tax imposition may fall directly on the United States of America. A Certificate of Exemption WILL NOT be provided.

**SER 16 - NOTICE TO PROCEED/PERFORMANCE PERIOD:** The Contractor's liability with respect to time is to commence at the time set forth when the Contract is awarded and to cease only when all work specified herein has been completed to the satisfaction of CGS or its accredited representative and when all Contractor's equipment, tools, etc., and all rubbish have been removed from the Vessel. The Contractor's time is subject to extension in accordance with Clause 8 of the attached REPAIRCON.

**SER 17 - TIME EXTENSIONS/PERFORMANCE PERIOD:** It is mutually agreed that the waiving of or the granting of any extension of time on one or more items of the Work covered by the Specifications shall not abrogate the Contract as a whole, nor shall it relieve the Contractor from the obligation of complying with all the other terms and conditions of the Contract in the time and manner specified. The issuance of requisitions for additional work shall in no way relieve the Contractor from complying with the terms of the Contract, unless specifically agreed in writing.

**SER 18 - DRYDOCK FACILITY REQUIREMENTS:** Acceptable docking facilities include marine railways, steel floating dry-docks, and graving docks. Wooden dry-docks are not acceptable. Dry-docks shall have at a minimum, as applicable to dock type, the below characteristics:

1. Reliable and functioning ballast level and draft indicating system.
2. Functional wing wall deflection indication system or equivalent method.

3. Reliable and properly functioning two-way communication system to all manned stations during dry-dock evolutions.
4. Proper manning with trained personnel to perform docking/undockings.
5. Manual backup of motorized valves.
6. All ballast pumps operable and available for use.
7. Backup power supplies in event of primary power failure.
8. A positive method of visually determining the position of all ballast valves.

The vessel shall be drydocked at a facility that meets one of the following criteria:

- a. Is under current certification by Naval Sea Systems Command (NAVSEA) in accordance with MIL-STD-1625C, Safety Certification Program for Drydocking Facilities and Shipbuilding Ways for U.S. Navy Ships.
- b. Is under current certification by a member of the International Association of Classification Societies (IACS).
- c. Is under current certification by an independent third party engineering firm recognized by the American Bureau of Shipping as capable of performing dry-dock design reviews which determines that the dry dock planned for dry docking the ship named in the solicitation:
  - (1) Is in acceptable material condition.
  - (2) Has effective emergency response systems and plans.
  - (3) Is safe and capable of dry-docking the intended ship and that the ship does not exceed the dry-dock's dimension rating, maximum entry draft, maximum lift capability, maximum linear load rating.
  - (4) Has a successful historical record in dry-docking ships.
  - (5) Has provided an incident history and claim information covering the last five years from the insurer of the dry dock facility including incident dates, description and final disposition.
  - (6) Can provide the minimum clearance between the ship's keel and dry-dock flooring as required in the work item for the ship name in the solicitation.
  - (7) Has a detailed procedure for docking and undocking.
- d. Is determined by CGS that the dry-dock has the required capability and services for supporting the ship named in the solicitation, has emergency response and safety plans, has drydocked a ship of equal or greater tonnage no more than six (6) months before the date of the solicitation and if no accidents or incidents (including acts of God) which may compromise the integrity and safety of the dry-dock have occurred.

Offerors shall submit information for the following characteristics of the proposed pier, if any:

- a. Location, pier number and/or name, street address, city, state and zip code with a geographical reference to a current navigational chart using longitude and latitude;
- b. Length;
- c. Width;
- d. Fire protection capability.

THE CONTRACTOR SHALL INDICATE, BY DRAWING TO SCALE, THE SHIP IN THE EXACT LOCATION IT WILL OCCUPY DURING THE PERFORMANCE PERIOD, USING THE SHIP CHARACTERISTICS GIVEN IN THE SOLICITATION.

Offerors shall furnish current soundings taken at MLW of the berthing area. These soundings must list depth in a ten-foot grid pattern from the pier string piece. The grid pattern for the intended grid berth shall extend for the entire length of the pier and outward from the pier for a minimum of 150 feet. Soundings may be taken by a qualified waterways surveyor and certified by same. Soundings shall be considered current if taken within one (1) year from date of the Solicitation and should indicate at what date they were taken. Charts shall be made up in blueprint form approximately 2' x 3' minimum with a geographic reference point of latitude and longitude and a geographic indicator of North. In addition, offerors must furnish current depth soundings for the approach of the pier and/or dry-dock from the main channel. These soundings must list the depths over the full length of the approach at a minimum of 500 foot intervals. All information must be readily available to clearly chart the progress of the Vessel from arrival at the port to safely moor or dry-dock. Soundings for the approach shall be considered current if taken within 12 months from date of issue of the Solicitation. The Vessel must be afforded safe access and egress to and from the Subcontractor's pier and/ or dry-dock. NOAA charts or excerpts of such documents will not be accepted.

Offers must furnish a completed COMSCINST 9997.1A.

CGS and the owner, Military Sealift Command (MSC), reserve the right to accomplish a thorough drydock survey either by CGS, MSC, or by an independent third party to support the evaluation of the drydock planned for drydocking the ship named in this solicitation. This is in addition to evaluating the information and data submitted by the offeror through COMSCINST 9997.1A

Anticipated arrival drafts: 31' 6"

A minimum of 2' of water below the keel at MLL W is required at all times.

A minimum of 1' of water below the keel is required as the vessel travels over the drydock sill and highest drydock blocks at docking and undocking of the vessel.

Offerors must accept the ship for berthing or dry-docking at anticipated arrival drafts. The anticipated arrival drafts are the minimum acceptable drafts and the drafts will not be reduced at the owner's expense to accommodate the subcontractor. Offerors shall be capable of

accepting the vessel at the anticipated arrival drafts or provide a detailed plan to obtain the conditions necessary for safe berthing/mooring and drydocking of vessel.

**CAUTION: COMSCINST 9997.1A, SOUNDINGS, AND OTHER INFORMATION MUST BE INCLUDED WITH EACH OFFER AT THE TIME OF OFFER. PRIOR SUBMITTALS FOR OTHER SOLICITATIONS ARE NOT ACCEPTABLE. FAILURE TO COMPLY WITH THESE REQUIREMENTS IN ALL MATERIAL ASPECTS WILL BE GROUNDS FOR DISQUALIFICATION OF AN OFFER.**

**SER 19 - MASTER AGREEMENT CANCELLATIONS:** Save for the warranties and representations contained therein, this Contract cancels and supersedes all other Master Agreements of a like nature between the parties with respect to the Vessel. This Contract shall be effective immediately upon execution and govern all work performed by Contractor for CGS with respect to the Vessel from and after the date of execution; provided, however, that this Contract may be terminated by CGS by delivery to Contractor of written notice of termination to the other party, the termination to be effective as of the date specified in the notice (not to be earlier than 30 days after Delivery).

CGS may terminate all or any portion of this Contract at any time, irrespective of whether or not a default has occurred, in accordance with Clause 9 of the attached REPAIRCON dated January 10, 2018.

**SER 20 - CONFLICT OF CONTRACT TERMS:** The provisions set forth herein shall, unless specifically stated in writing to the contrary, apply to all Work performed on behalf of CGS by Contractor, its employees, Subcontractors, agents, or representatives. In the event that the United States of America is a party to a contract involving CGS and Contractor, the terms and conditions in such a contract shall prevail over inconsistent terms and conditions that are contained herein. WHEREFORE, IN CONSIDERATION OF the mutual covenants contained herein, the parties intending to be legally bound have executed this Contract as of the date of the applicable order.

#### **SER 21 - MARITIME LIENS:**

- a. Neither the Contractor nor any of its agents or Subcontractors shall be entitled to a maritime lien upon the Vessel. The Contractor agrees that nothing in or contemplated by this Contract creates or shall be construed to create any right to assert a maritime lien on the Vessel, the subject of this Contract, or to bring an action under the Public Vessels Act, 46 U.S.C. app. 791 *et seq* or the Suits in Admiralty Act, 46 U.S.C. app. 741 *et seq*.
- b. The Contractor further agrees that this Contract between CGS and the Contractor creates no privity between itself and the Vessel's owner, the United States of America, and that the Contractor is relying solely on the credit of CGS for payment hereunder. The Contractor agrees that it is not authorized by either the Vessel's owner or CGS to enter into contracts on behalf of the United States of America or the Vessel, nor is the Contractor entrusted with the management of the Vessel or authorization to pledge the

credit of the Vessel. This Contract is strictly for ship repair or alteration and does not create an agency agreement.

- c. The Contractor shall indemnify and hold harmless the Government, its agencies and instrumentalities, and the CGS, against all suits, actions, claim, costs or demands against the Government, its agencies and instrumentalities, and CGS, for which the Vessel and its owner may be subject under this Contract.
- d. The Contractor, as and when requested by CGS, shall execute the following waiver prior to commencement of any Work under this Contract and shall cause its Subcontractors to execute a similar waiver; substituting the term "Subcontractor" for the term "Contractor" and the term "Contractor" for the term "CGS":

Detyens Shipyards Inc., the Contractor, hereby agrees that all work performed by the Contractor on the USNS Stockham, a vessel owned by the United States Government, is being performed under Contract between CGS and Contractor and the Contractor is relying solely on the credit of CGS for payment. The Contractor agrees that it will perform work upon or for the USNS Stockham only at the direction of CGS pursuant to the written contract. The Contractor understands that the Contractor is not authorized by either the Owner of the vessel or CGS, to enter into contracts on behalf of the Government or CGS, nor is the Contractor entrusted with management of the vessel or authorized to pledge the credit of the vessel. The Contractor further understands that it is not to proceed on work unless pursuant to a written contract. The Contractor hereby knowingly and voluntarily releases and waives any and all rights to assert any maritime lien(s) upon the Vessel. The Contractor has also been provided with a copy of the clause entitled "Maritime Liens" which is hereby incorporated in full and has read that clause. The Contractor understands this clause and agrees to all of its terms and conditions, as if they were written in full text in this waiver.

- e. The Contractor shall indemnify and hold harmless the United States of America, its agencies and instruments, and CGS, against all suits, actions, claims, costs or demands against the United States of America, its agencies and instruments and CGS, for which the Vessel and its owner may be liable under this subcontract.
- f. The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties in all subcontracts at any tier for suppliers of necessities to the Vessel, including but not limited to such goods and services as are furnished to the Vessel in accordance with this Contract.
- g. The Contractor will complete and sign the above release form and shall also obtain similar releases from each of its Subcontractors. Before commencing work on the Vessel, Contractor shall provide CGS the executed "Contractor's Release and Certificate of Completion" form and shall provide the similar form executed by each Subcontractor before each such Subcontractor commences work.

**SER 22 - LIEN RELEASES:** In addition to Contractor's obligations in accordance with SER 21- Maritime Liens above, Contractor shall, as and when requested by CGS, furnish evidence satisfactory to CGS and the United States of America that claims for labor and material furnished by Contractor in connection with performance of this Contract have been paid, including claims for union health, welfare and pension fund payments and for payroll taxes as may be applicable. Such evidence shall be furnished in such form and manner as requested by CGS, and all statements shall, if required by CGS, be made by sworn affidavit. Contractor shall furnish to CGS releases of bond rights and lien rights by any and all Subcontractors that have furnished labor, material, or other things in the performance of this Contract. It is agreed that payment of money other than the 5% retainage due to Contractor need not be made by CGS unless and until such releases are furnished. Contractor shall deliver its work free from all claims, encumbrances, or liens.

**SER 23 - GOVERNMENT-REQUIRED CLAUSES:** In the event this Contract pertains to performance by Contractor of a Federal public contract, Contractor acknowledges receipt of and agrees to comply with applicable government-required clauses, including Federal Acquisition Regulations.

**SER 24 - COMPLIANCE WITH EMPLOYMENT LAW:** Contractor shall ensure compliance with all applicable local, state, and federal employment laws as they apply to Contract Labor personnel

**SER 25 - FINANCING/PAYMENT TERMS:** Standard payment terms are NET 30 days calculated from the day after the CGS office located in Jacksonville, Florida, U.S.A. is in receipt of a valid invoice for goods and/or services. At the close of the Contract, to submit a "valid" invoice for 100 percent completion, Contractor must deliver a signed Contractor's Release and Certification of Completion. CGS may apply or set off against any amount due Contractor the amount, estimated in good faith by CGS if not liquidated, of any indebtedness or claim of any kind of Contractor to CGS, whether or not arising under this Contract. There will be a 5% retainage, of the final contract value, 50% of the 5% retainage will be paid 90 days during the warranty period and the remaining 50% will be paid after the 180-day warranty holdback period provided that there are no outstanding reports or warranty issues.

**SER 26 - SHIP DELIVERY/REDELIVERY:** A certificate (Exhibit II) shall be executed between CGS and Contractor when custody of the Vessel is transferred from CGS to Contractor for contract performance, either prior to towing, or upon arrival of the Vessel in Contractor's facility if Vessel arrives under its own power. The "Ship Delivery/Redelivery Certificate" shall remain in effect until a superseding "Ship Delivery/Redelivery Certificate" is executed upon redelivery of the Vessel from Contractor to CGS. If the Vessel returns to Contractor's facility after a sea trial, a "Ship Delivery/Redelivery Certificate" will again be executed. As noted on the "Ship Delivery/Redelivery Certificate", Contractor accepts the Vessel with all fixtures, stores and appurtenances, including liquids and slops. Contractor shall complete a joint, comprehensive inspection survey of the Vessel with the CGS representative/Port Engineer prior to redelivery of the Vessel to CGS. Contractor shall redeliver the Vessel from the Contractor's care, custody, and control to CGS by executing the Vessel delivery/redelivery certificate form at

the Vessel's departure from the Contractor's facility. All equipment, furnishing, appurtenances, stores, and fixtures removed from the Vessel, except that specified for temporary removal or otherwise designated by the CGS Representative or the Specification, shall remain the property of the United States of America.

Upon completion of all work in this Specification package and final acceptance of the CGS representative/Port Engineer, Contractor shall ensure that all new and disturbed areas of the Vessel are clean and ready for sea in all respects. Contractor shall secure new and disturbed equipment and components of the Vessel for sea. If required by this Contract, Contractor shall submit written documentation of all regulatory approvals to the Port Engineer at least three (3) calendar days prior to the Vessel's scheduled departure from the Contractor's facility.

#### **SER 27 – SHIPYARD/INDUSTRIAL ASSISTANCE CLAIMS CLAUSE**

Claims. In the event that the Shipyard/Industrial Assistance subcontractor submits a claim or request for adjustment to the contract price, for performance of work under a contract, the Contractor shall provide:

1. A description of work required by the contract, including the citations to the contract, before the factual events which led to the claim;
2. A detailed report on the status of the work as originally required by the contract;
3. A description of new requirements or other events which led to the claim;
4. A list of components, equipment, and other identifiable property involved in the claim. The status of manufacture, procurement, or installation of shipyard/industrial assistance Contractor furnished property is to be indicated. The status of specified design and production work. Items of raw material, purchased parts, components, and other identifiable hardware, which are made excess by the change and which are not to be retained by the Contractor, and are listed for later disposition;
5. A description of work completed which is deleted, or will be deleted, by events which led to the claim;
6. A description of interferences and inefficiencies involved in performing the work;
7. A description of each element of work disruption and exactly how work has been, or will be, disrupted, including:
  - a. The calendar period of time during which disruption occurred, or will occur;
  - b. Area(s) aboard the ship where disruption occurred, or will occur;
  - c. Trade(s) disrupted, with a breakdown of man-hours for each trade;
  - d. Scheduling of trades before, during, and at the period of disruption;
  - e. Description of measures taken to lessen the disruptive effect;
8. Delay in delivery attributable solely to the events which led to the claim;

9. Other new works attributable to the events which led to the claim;
10. Supplementing the foregoing, a narrative statement of the direct causal relationship between any alleged act or omission of the Contractor or the Government, and the claimed consequences thereof, cross-referenced to detailed information provided as required above;
11. A statement of costs budgeted for the work as originally specified under the contract (prior to the events leading to the claim)."

**SER 28 - LIQUIDATED DAMAGES:** Liquidated damages for delay in contract performance is US \$84,416 (Eighty four thousand four hundred sixteen UNITED STATES DOLLARS) per calendar day unless an approved contract extension has been signed by CGS. Contractor shall provide written notice to the CGS Port Engineer or other authorized CGS representative at least five (5) calendar days prior to a change in the Vessel's scheduled departure date. Otherwise, CGS will consider agreed contract completion date as Contractor's certification that Contractor will complete all work to enable the Vessel's departure on the scheduled departure date and CGS will mobilize the full crew and the owner's sea trial team. In the event that the Contractor fails to drydock the Vessel within forty-eight hours of the Contract Period the Contractor shall pay to the Operator 3,500 dollars per day that dry-docking is delayed beyond the first forty-eight hours.

**SER 29 - RED LETTER CLAUSES; WAIVER; EFFECT:** Failure to delete any lien provisions from any standard Red Letter Clauses shall be considered non-responsive to this proposal and shall be void and of no effect in any Contract between Contractor and CGS related to the Vessel.

**SER 30 - EQUAL EMPLOYMENT OPPORTUNITY:** It is understood that the successful contractor will comply with Contractor's responsibilities (a) under Executive Order 11246, as amended, relating to Equal Employment Opportunity, non-segregated facilities and Affirmative Action Program and, with respect to requiring Subcontractor and Suppliers to comply therewith; (b) under Executive Order 11701 which provides for the listing of job vacancies by Federal Contractors and Subcontractors; (c) under Executive Order 11458 related to utilization of Minority Business Enterprises and, for Contracts of \$500,000 or more, the Minority Business Subcontractors Program; and (d) under regulations issued pursuant to such order as applicable.

## **PART II: Liability, Indemnity, and Contractor Insurance for Shipyards/Vessels**

- (a) Duty of Care: The Contractor shall exercise reasonable care and use his best efforts to prevent accidents, injury, death, and/or damage to all persons and property in and about the work done and to the Vessel or portion thereof upon which work is done.
- (b) Liability for loss of or damage to the Vessel, her materials, and equipment:

- (1) Except as set forth in this clause or any guarantee or warranty provision in the Contract, the United States of America, in its capacity as Owner of the Vessel, assumes the risk of physical loss or damage to any part of the Vessel, its machinery, equipment, stores, and other property including cargo if owned by the United States of America except to the extent that such loss or damage is caused by any negligence, fault, error, act or omission of the Contractor, its Subcontractors, or the servants, agents, or employees of the Contractor or its Subcontractors. The burden of proving freedom from fault shall be borne by the Contractor.
- (2) Limit of Liability – Except as set forth below, Contractor's liability under this paragraph (b) shall not exceed total damage to the ship including total loss up to US \$30,000,000 (THIRTY MILLION UNITED STATES DOLLARS) per accident or occurrence per Vessel, and shall not exceed in the aggregate per accident or occurrence the sum of total damage to the ship or ships including total loss up to US \$30,000,000 (THIRTY MILLION UNITED STATES DOLLARS) multiplied by the number of United States of America-owned Vessels in the care, custody or control of the Contractor at the location and at the time of the accident or occurrence giving to the loss or damage.
- (3) CGS and Owner assume no risk with respect to loss or damage compensated for by insurance or otherwise or resulting from risks with respect to which the Contractor has failed to maintain insurance as required by this clause.
- (4) CGS and Owner assume no risk of, and will not pay for, any costs of the following:
  - (i) Inspection, repair, replacement, or renewal of any defects in the Vessel(s), her appurtenances, material, and/or equipment due to—
    - (A) Defective workmanship performed by the Contractor or any Subcontractor;
    - (B) Defective materials or equipment furnished by the Contractor or any Subcontractor; or
    - (C) Workmanship, materials, or equipment that does not conform to the requirements of the contract, whether or not the defect is latent or whether or not the nonconformance is the result of negligence.
  - (ii) Loss, damage, liability, or expense caused by, resulting from, or incurred as a consequence of any delay or disruption, willful misconduct or lack of good faith by the Contractor or any of its representatives that have supervision or direction of—
    - (A) All or substantially all of the Contractor's business; or
    - (B) All or substantially all of the Contractor's operation at any one plant or facility.
- (5) As to any risk that is assumed by the Owner, the Owner shall be subrogated to any claim, demand, or cause of action against third parties that exists in favor of the

Contractor. If required by the Owner, the Contractor shall execute a formal assignment or transfer of the claim, demand, or cause of action.

(6) No party other than CGS shall have any right to proceed directly against the Owner or join the Owner as a codefendant in any action.

(7) In the event of loss of or damage to the Vessel(s), her appurtenances, material, or equipment that exceeds the limit of liability set forth in (b)(2) above, the Contractor shall promptly notify CGS, both verbally and in writing, of the loss or damage and await direction from CGS.

(c) **Indemnification.** As to third parties, including, but not limited to, agents, employees or servants of the Contractor, including any Subcontractor and its agents, employees, and servants, the Contractor hereby agrees to indemnify and hold harmless the Owner, the Vessel and CGS, and its and their respective officers, directors, employees, agents, assigns, and underwriters, from and against any and all suits, actions, claims, demands, or causes of action, formal or informal, as a result of property damage, damage, personal injury, or death arising in whole or in part from the fault, negligence, wrongful act, or wrongful omission of the Contractor, any of its Subcontractor, or their respective servants, agents, employees, or any other persons for whose acts Contractor or its Subcontractor(s) may be responsible.

(1) **Limit to Indemnification** - Except as set forth in paragraph (c)(4) below for water pollution, the Contractor's obligation to indemnify under this subparagraph shall not exceed the sum of US \$20,000,000 (TWENTY MILLION UNITED STATES DOLLARS) as a consequence of any single occurrence with respect to any one Vessel.

(2) This indemnity includes, without limitation, suits, actions, claims, costs, or demands of any kind, whether formal or informal, resulting from death, personal injury, or property damage occurring during the period of performance of work on the Vessel or within 90 days after redelivery of the Vessel. For any such suit, action, claim, cost, or demand made more than ninety (90) days after redelivery, the rights of the parties shall be as determined by other provisions of this Contract and by applicable law. The indemnity does apply to death occurring more than ninety (90) days after redelivery where the injury was sustained during the period covered by the indemnity.

(3) The indemnity does not apply to damage or injury caused solely by the gross negligence or willful misconduct of the Owner or its employees or agents, or by CGS or its employees or agents. The burden of proving gross negligence or willful misconduct of the Owner or CGS or their respective agents or employees shall be borne by the Contractor.

(4) The Contractor's obligation to indemnify under this paragraph for liabilities arising from the discharge or release, or substantial threat of discharge or release,

of oil or hazardous materials shall not exceed the sum of US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS) as a consequence of any single occurrence with respect to any one Vessel.

- (d) **Insurance**. The following provisions regarding liability and insurance shall remain in force during the course of this Contract.
  - (1) The Contractor shall, at its sole expense, including the cost of all deductibles, procure and maintain the following insurance for the duration of the Contract Period, such insurance to specifically include liability assumed by the Contractor under this contract. --
    - (i) Casualty, accident, and liability insurance, insuring the performance of its obligations under paragraph (c) of this clause in the minimum amounts set forth below:
      - A. **Comprehensive General Liability** including, but not limited to, coverage for products and completed operations liability, property damage liability, and contractual liability with a minimum US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS) combined single per-occurrence limit for bodily injury and property damage and US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS) limit in the aggregate; and
      - B. **Ship Repairer's Legal Liability and Marine General Liability Insurance** in the minimum amount of US \$10,000,000 (TEN MILLION UNITED STATES DOLLARS) in the aggregate, written on an occurrence basis, endorsed to cover premises operations, products / completed operations, personal injury, and contractual liability, with "care, custody and control" exclusions deleted, any watercraft exclusions deleted, and including an *in rem* endorsement.
      - C. Should the Work specified under this Contract include delivery of fuel or other hazardous products, or waste disposal, **Sudden and Accidental Pollution Insurance** with limits of liability not less than US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS) per Vessel, per occurrence, and any other public liability or other environmental impairment coverage that may be required by federal, state, and/or local regulatory authorities. Contractor may self-insure for the indemnification required by paragraph (c)(4) above this US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS) minimum requirement.
    - (ii) **Statutory Workers Compensation** (or its equivalent as may be required in the place where the work is being performed), including coverage under

the United States Longshoreman's and Harbor Workers' Compensation Act (LHWCA), if required, and the Defense Base Act Extension of the U.S. Longshoreman's and Harbor Workers' Compensation Act (DBA), covering Contractor's employees for all compensation and other benefits required by applicable law or by governmental authority on account of injury, death, sickness or disease; and **Employer's Liability and/or Maritime Employer's Liability insurance** with limits of liability of no less than US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS), any one accident or occurrence, if not covered under Contractor's P&I insurance.

- (iii) Should the services supplied under this Contract include the use of Contractor's vessel(s), **Protection and Indemnity Insurance** with limits of liability of no less than US \$5,000,000 (FIVE MILLION UNITED STATES DOLLARS) per occurrence.
  - (iv) Contractor shall require all its Subcontractors performing services in association with the Work performed by Contractor to maintain in force insurance of the same types and in the amounts set forth above in paragraph (d)(1).
- (2) Each such policy shall contain a confirmation that there shall be no recourse against the United States of America or CGS for payment of premium and must provide for at least thirty (30) calendar days' advance written notice of cancellation (without disclaimer), reduction in coverage, or of any non-renewal that is the option of the insurer, said notice to be provided to CGS at the address specified below.
- (3) Contractor's insurance shall be primary with respect to any insurance carried by CGS or Owner, insofar as such insurance may apply to any liabilities that are properly the responsibility of Contractor under this Contract.
- (4) Prior to commencement of the Work contemplated by this Contract, Contractor shall provide CGS with evidence of all insurance policies required by paragraph (d) of this clause. However, commencement of the Work without provision of the required evidence of insurance shall not constitute a waiver of Contractor's obligation to maintain the required insurance coverages and to furnish CGS with the aforesaid evidence of insurance. Said evidence of insurance shall take the form of a detailed certificate of insurance, cover note, or policy from Contractor's insurance broker(s) confirming the existence and amounts of the coverages required above. With the sole exception of Worker's Compensation / Employer's Liability policies, each such certificate, cover note, or policy shall name CGS, the United States of America, and their respective contractors (with the exception of Contractor) and subcontractors as additional assureds. Each such certificate, cover note, or policy shall be endorsed to waive all rights of subrogation against CGS, the United States of America, and the Vessel, and shall specify the types of

coverage, policy forms, policy periods, deductibles (if any), and underwriters with the percentage of participation of each. Excess liability and umbrella liability policies may be used in combination with primary policies to meet the minimum insurance requirements set forth above. The New York Suable Clause or Service of Suit USA Clause must be confirmed for any foreign underwriter placements.

Certificates of Insurance and Notices of Cancellation shall be sent to:

Crowley Maritime Corporation  
 Risk Management Department  
 9487 Regency Square Blvd.  
 Jacksonville, FL 32225  
 USA  
 Fax: +1 (904) 805-1639  
 Email: Vendor.Insurance@crowley.com

- (5) If it is judicially determined that any of the insurance obligations set forth in this paragraph (d) are unenforceable in any respect under the applicable law, said obligations shall automatically be amended to conform to the maximum limits and other provisions in the applicable law for so long as the law is in effect.
  - (6) Should Contractor fail to procure or maintain any of the insurance required by this paragraph (d), or by any act or omission vitiate or invalidate any of the insurance required by this paragraph (d), Contractor shall indemnify CGS and the United States of America to the extent that either or both of them suffer or incur any loss, damage, liability, or expense in consequence of such failure, act, or omission.
- (e) Notice of Loss: It is expressly understood that Contractor shall promptly notify CGS of any accident involving the Vessel, such notification to include at a minimum full details of the loss or damage, including the names of all parties involved in the incident, location of the accident, names and contact information for all witnesses, and confirmation of prompt notification by Contractor to its responsible underwriter(s).
- (1) If a claim or suit is later filed against the Contractor as a result of the event, the Contractor shall immediately deliver to CGS every demand, notice, summons, or other process received by the Contractor or its employees or representatives.
  - (2) The Contractor shall cooperate with CGS and the Owner and shall, upon request, assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits. CGS shall reimburse the Contractor for expenses incurred in this effort, other than the cost of maintaining the Contractor's usual organization and costs covered by insurance, provided such expenses were pre-approved in writing by CGS.
  - (3) The Contractor shall not, except at its own expense, voluntarily make any payments, assume any obligations, agree to any settlements, or otherwise incur

any expense associated with any incident involving the Vessel without the express written consent of CGS, other than what would be imperative for the protection of the Vessel(s) at the time of the event.

**PART III: Crowley Government Services, Inc., Terms and Conditions (Supplemental) - Environmental Handling, Transportation, and Disposal of Hazardous and Regulated Materials**

The Contractor shall pursue work without detriment to the environment and perform all work consistent with industry wide standards and laws and regulations governing the control of pollution of the environment without additional cost to CGS. Additionally:

- (a) Contractor agrees to indemnify, defend, and save CGS and the United States of America harmless from and assumes any liability, payment, expense (including reasonable attorney's fees) or loss resulting from the failure by the Contractor, its agents, or its subcontractors for any reason to comply fully with every federal, state or local law, statute, regulation, rule, ordinance, treaty or government directive which directly or indirectly regulates or affects the collection, handling, storage, transportation or disposal of any hazardous material, hazardous waste or other regulated material encountered by the Contractor hereunder, and from and against any and all claims, suits, liabilities, directly or indirectly, based on damage to, or destruction of, any property (including the property of Contractor), or injury (including death) to any person or property arising out of or attributable to any negligent or willful act or omission to act, of or by Contractor, its agents or Subcontractors in performing the Contract hereunder. Such indemnification liability shall be binding upon successors in interest of the Contractor, and shall survive Contract final payment.
- (b) Contractor agrees that in performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations regarding any hazardous material, hazardous waste, or other regulated material. It is understood and agreed that all performance under this Contract is subject to all applicable waste regulations of the Environmental Protection Agency, Department of Transportation, the applicable state Department of Water Resources, OSHA, US Coast Guard, and/or other government agencies having jurisdiction over the operations of the CGS and Contractor with respect to the goods and services specified herein.
- (c) CGS shall have the right to inspect and obtain copies of all written licenses, permits or approvals, issued by any governmental entity or agency to Contractor which are applicable to this Contract; to inspect and test, at its own expense, the handling, loading, transportation, storage, treatment or disposal operations conducted by Contractor in the performance of this Contract regarding any hazardous material, hazardous waste or other regulated material.
- (d) Contractor shall be liable for the maintenance and production of records (defined within the applicable regulation applicable at the time of award) regarding the goods and services performed under this Contract relating to hazardous material, hazardous waste or other regulated material for a period of ten years from the effective date of the Contract.

other regulated material hereunder. Contractor shall provide CGS copies of manifests within 30 days after signature on the manifest.

- (f) Contractor by its offer and acceptance of this Contract acknowledges that it or its Subcontractor(s) is / are qualified and certified in compliance with all applicable laws for the provision of goods or services under this Contract which in any way related to hazardous material, hazardous waste or other regulated material. Contractor shall provide CGS with its or its Subcontractor's EPA number when hazardous waste or material is handled, transported and/or disposed of.

Detyens Shipyards, Inc.

Ship Yard Name

PETER C. BROWNS, Jr.  
Printed Name

Peter C. Brown  
Signature

9/5/18  
Date

Attachment B to BIMCO REPAIRCON dated 24 August 2018  
 By and between Crowley Government Services, Inc., Managers,  
 And Detyens Shipyards, Inc., Contractor

**Crowley Government Services, Inc. (CGS) Flow Down Clauses for Subcontracts under Prime Contract  
 No. N62387-15-C-3135**

52.202-1	Definitions	NOV 2013
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	APR 1984
52.203-7	Anti-Kickback Procedures	OCT 2010
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	JAN 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	JAN 1997
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	OCT 2010
52.203-13	Contractor Code of Business Ethics and Conduct	APR 2010
52.203-16	Preventing Personal Conflicts of Interest	DEC 2011
52.204-2	Security Requirements	AUG 1996
52.204-9	Personal Identity Verification of Contractor Personnel	JAN 2011
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	JUL 2013
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	AUG 2013
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	JUL 2013
52.215-2	Audit and Records--Negotiation	OCT 2010
52.215-10	Price Reduction for Defective Certified Cost or Pricing Data	AUG 2011
52.215-12	Subcontractor Certified Cost or Pricing Data	OCT 2010
52.219-8	Utilization of Small Business Concerns	JUL 2013
52.219-9	Small Business Subcontracting Plan	JUL 2013
52.219-14	Limitations On Subcontracting	NOV 2011
52.219-16	Liquidated Damages-Subcontracting Plan	JAN 1999
52.222-3	Convict Labor	JUN 2003
52.222-21	Prohibition Of Segregated Facilities	FEB 1999
52.222-26	Equal Opportunity	MAR 2007
52.222-29	Notification Of Visa Denial	JUN 2003
52.222-35	Equal Opportunity for Veterans	SEP 2010
52.222-36	Affirmative Action For Workers With Disabilities	OCT 2010
52.222-37	Employment Reports on Veterans	SEP 2010
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	DEC 2010
52.222-41	Service Contract Act Of 1965	NOV 2007
52.222-50	Combating Trafficking in Persons	FEB 2009
52.222-54	Employment Eligibility Verification	AUG 2013
52.223-3	Hazardous Material Identification And Material Safety Data	JAN 1997
52.223-5	Pollution Prevention and Right-to-Know Information	MAY 2011
52.223-6	Drug-Free Workplace	MAY 2001
52.223-10	Waste Reduction Program	MAY 2011
52.223-12	Refrigeration Equipment and Air Conditioners	MAY 1995
52.223-18	Encouraging Contractor Policies To Ban Text Messaging While Driving	AUG 2011
52.224-1	Privacy Act Notification	APR 1984
52.224-2	Privacy Act	APR 1984

52.225-13	Restrictions on Certain Foreign Purchases	JUN 2008
52.226-1	Utilization Of Indian Organizations And Indian-Owned Economic Enterprises	JUN 2000
52.227-1	Authorization and Consent	DEC 2007
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	DEC 2007
52.228-3	Worker's Compensation Insurance (Defense Base Act)	APR 1984
52.229-3	Federal, State And Local Taxes	FEB 2013
52.229-6	Taxes--Foreign Fixed-Price Contracts	FEB 2013
52.232-1	Payments	APR 1984
52.232-8	Discounts For Prompt Payment	FEB 2002
52.232-9	Limitation On Withholding Of Payments	APR 1984
52.232-11	Extras	APR 1984
52.232-17	Interest	OCT 2010
52.232-18	Availability Of Funds	APR 1984
52.232-23	Assignment Of Claims	JAN 1986
52.232-25	Prompt Payment	JUL 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	DEC 2013
52.233-1	Alt I Disputes (Jul 2002) - Alternate I DEC 1991	
52.233-3	Protest After Award	AUG 1996
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.237-2	Protection Of Government Buildings, Equipment, And Vegetation	APR 1984
52.237-3	Continuity Of Services	JAN 1991
52.242-1	Notice of Intent to Disallow Costs	APR 1984
52.242-13	Bankruptcy	JUL 1995
52.243-1	Alt I Changes--Fixed Price (Aug 1987) - Alternate I APR 1984	
52.243-7	Notification Of Changes	APR 1984
52.244-5	Competition In Subcontracting	DEC 1996
52.244-6	Subcontracts for Commercial Items	DEC 2013
52.245-1	Government Property	APR 2012
52.245-9	Use And Charges	APR 2012
52.246-20	Warranty Of Services	MAY 2001
52.246-25	Limitation Of Liability--Services	FEB 1997
52.247-63	Preference For U.S. Flag Air Carriers	JUN 2003
52.247-64	Preference for Privately Owned U.S. - Flag Commercial Vessels	FEB 2006
52.248-1	Value Engineering	OCT 2010
52.249-2	Termination For Convenience Of The Government (Fixed-Price)	APR 2012
52.249-8	Default (Fixed-Price Supply & Service)	APR 1984
252.203-7000	Requirements Relating to Compensation of Former DoD Officials	SEP 2011
252.203-7001	Prohibition On Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	DEC 2008
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	SEP 2013
252.204-7000	Disclosure Of Information	AUG 2013
252.204-7012	Safeguarding of unclassified controlled technical information	NOV 2013
252.209-7004	Subcontracting With Firms That Are Owned or Controlled By The Government of a Terrorist Country	DEC 2006
252.223-7001	Hazard Warning Labels	DEC 1991
252.223-7004	Drug Free Work Force	SEP 1988
252.225-7001	Buy American And Balance Of Payments Program	DEC 2012
252.225-7002	Qualifying Country Sources As Subcontractors	DEC 2012
252.225-7004	Report of Intended Performance Outside the United States	

252.225-7005	and Canada--Submission after Award Identification Of Expenditures In The United States	OCT 2010 JUN 2005
252.225-7006	Quarterly Reporting of Actual Contract Performance Outside the United States	OCT 2010
252.225-7012	Preference For Certain Domestic Commodities	FEB 2013
252.225-7013	Duty-Free Entry	OCT 2013
252.225-7025	Restriction on Acquisition of Forgings	DEC 2009
252.225-7040	Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States	FEB 2013
252.225-7041	Correspondence in English	JUN 1997
252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States	MAR 2006
252.225-7048	Export-Controlled Items	JUN 2013
252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns	SEP 2004
252.227-7013	Rights in Technical Data--Noncommercial Items	JUN 2013
252.227-7016	Rights in Bid or Proposal Information	JAN 2011
252.227-7027	Deferred Ordering Of Technical Data Or Computer Software	APR 1988
252.227-7030	Technical Data--Withholding Of Payment	MAR 2000
252.227-7037	Validation of Restrictive Markings on Technical Data	JUN 2013
252.232-7003	Electronic Submission of Payment Requests and Receiving Reports	JUN 2012
252.232-7010	Levies on Contract Payments	DEC 2006
252.233-7001	Choice of Law (Overseas)	JUN 1997
252.243-7001	Pricing Of Contract Modifications	DEC 1991
252.243-7002	Requests for Equitable Adjustment	DEC 2012
252.244-7001	Contractor Purchasing System Administration	JUN 2012
252.245-7000	Government-Furnished Mapping, Charting, and Geodesy Property	APR 2012
252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property	APR 2012
252.245-7002	Reporting Loss of Government Property	APR 2012
252.245-7004	Reporting, Reutilization, and Disposal	MAY 2013

#### 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<https://www.acquisition.gov/far/>

<https://www.acq.osd.mil/dpap/dfarspgi/current/index.html>

(End of clause)